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House of Representatives

The House met at 10 a.m.

The Reverend Allen Novotny, Gonzaga College High School, Washington, DC, offered the following prayer:

Lord, we gather here this morning, representatives of millions, to use Your gifts of the power of words, of debate and of laws to serve their needs. Yet, we dare ask for even more, the awesome power of Your Spirit.

And so we pray, rush upon us, O Spirit of God. From this time, rush upon us: like living water, like leaping fire, like fresh wind through an open window.

For this time, rush upon us, O Holy Spirit: with wisdom and knowledge, with understanding and counsel, with wonder and with recognition and awe. Just in time, rush upon us, O Spirit of God: in life-giving words, in songs for the powerless, in a passion for service. At this time, rush upon us, O Holy Spirit: this hopeful time, this planning time, this renewing time, this new time, this full time, all the time. Rush upon us, O Spirit of God.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey (Mr. SIRES) come forward and lead the House in the Pledge of Allegiance.

Mr. SIRES 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.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 15 1-minute speeches on each side of the aisle.

THE COST OF THE WAR IN IRAQ

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

Mr. MORAN of Virginia. Madam Speaker, the Congressional Budget Office just released an analysis that on top of the half a trillion dollars that we have already spent on the war in Iraq, it will cost us another $2 trillion over the next decade. That includes $564 million of interest, because every dime of this war in Iraq has been borrowed, from our children and from our grandchildren. It will come to a greater cost than the cost of the Korean, the Vietnam War and all three theaters of operation in World War II. It boils down to about $7,000 for every man, woman and child.

And here we thought the only real sacrifice was being borne by our soldiers and their families. We are beginning to see the real implications for all of America. In fact, just last week, the President vetoed a bill that would have cost $35 billion but would have provided health care to 10 million children over the next 5 years and at the same time demanded that we instead spend that same amount of money for 3 weeks in Iraq. This is not what America expects from its President or its Congress, Madam Speaker.

VETERANS AFFAIRS APPROPRIATIONS BILL

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

Mr. AKIN. Mr. Speaker, last week on ABC's news program, Charlie Gibson announced the news in Iraq. He said, ''The news is, there isn't any news.'' That's right. Across all of Iraq, there were no fatalities, shootings and bombs going off. As the media has started to recognize that we have turned the corner and are winning the war in Iraq, this pressing question, once again, comes before the House, and that is, what are the Democrats going to do with the bill that we have already passed and that the Senate has already passed to provide money for our veterans?

Eighteen million dollars every day is being wasted for the last 130 days because we won't bring this veterans funding bill back for final approval. It has the votes. What are we waiting for, post-traumatic stress syndrome? Veterans hospitals? Veterans clinics? We have to ask the Democrat leadership why a 130-day wait.

It's time for us to fund our veterans.

HONORING GALESBURG, ILLINOIS

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

Mr. HARE. Mr. Speaker, I rise today to pay honor to my hometown, the city of Galesburg, IL, for publicly speaking out against hate crimes. Galesburg has a rich tradition of promoting equality for all of its citizens. It was a stop on the Underground Railroad and home to the first anti-slavery society in the State of Illinois.

Mayor Gary Smith recently declared October Not in Our Town Month, an effort to combat violent, bias-motivated crimes designed to cause fear and intimidation among an entire group of people.

The Not in Our Town Month proclamation states, ''Hate groups shall not divide communities.'' It also urges the residents of Galesburg to ''join together to eliminate racism and violence and to declare that respect,

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equality and freedom for all people be our goal.''

Crimes based on prejudice are a poor reflection on our communities, and I congratulate Galesburg for refusing to stand by in silence.

VETERANS FUNDING

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

Mr. STEARNS. Good morning, Mr. Speaker.

My colleagues, the House passed the largest increase in veterans funding in the 77-year history of the Veterans Affairs Department. The bill provides more than $37 billion for veterans programs. This is a $4.4 billion increase over last year. As pointed out earlier, it has been over 130 days since the House passed the VA/Military Construction funding. Yet they have refused to appoint conferees like the Senate, their counterparts, have already done. So at this point the bill can't move forward and be signed by the President.

By the Democrats' failure to move forward on this bill, veterans are losing out on $600 million for posttraumatic stress disorder care, traumatic brain injury research and care; $4.1 billion to improve VA facilities, hospitals and clinics; and, lastly, $480 million for prosthetic research to help our wounded veterans retain a positive quality of life.

Mr. Speaker, we urge our Democrat colleagues to move forward on this bill and have it to the President so he can sign it on Veterans Day.

NATURAL DISASTERS

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

Mr. BLUMENAUER. Our hearts go out to the almost million people forced to flee their homes from wildfires in Southern California. At the same time a drought has gripped North Carolina and Georgia which in the long run may be end up being as devastating.

These disasters are almost unimaginable, except we've been there before, like in Southern California in 2003. And two-thirds of the new development in the last 10 years in Southern California has been in areas we know are subject to wildfire. What are we going to do about it?

The administration's refusal to deal meaningfully with global warming is the most glaring example of behaviors that doom us to reruns for years to come. Georgia has no real plan to deal with its water and doesn't even know what supplies it can count upon. Here in Congress, we fail to prioritize the right infrastructure and give billions of dollars for relief after a disaster and won't spend millions to invest in programs to protect before it happens.

I hope and pray that the message sinks in and that we use this disaster as a wake-up call to get our act together to help people before these things happen to save both lives and money in the future.

CALIFORNIA WILDFIRES

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

Mr. DREIER. Mr. Speaker, I rise this morning to express on behalf of California's congressional delegation our appreciation to our colleagues here in the House of Representatives and to the administration, President Bush and Secretary Chertoff and Director Paulison and others in the administration who are at this moment on the ground in Southern California, and to the courageous firefighters and Governor Schwarzenegger and his entire team for all that is being done to deal with what has been described by one battalion chief in San Diego, California, as the worst fire that the State has ever faced. Last night, Brian Williams of NBC News said that the fact that nearly a million people have been evacuated from their homes means that this is the largest movement of people since the Civil War.

We are going to go through some very difficult and challenging days ahead, and to the firefighters, to those who have suffered losses, our thoughts and prayers are with you. And again my appreciation to our colleagues who represent States across this country, North Carolina, Wyoming, Arizona, Idaho, States all across this country, Mr. Speaker, that have stepped up to the plate to help us. I also want to express my appreciation to Speaker PELOSI as well.

CHIP

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

Mr. SIRES. Mr. Speaker, the bipartisan CHIP Reauthorization Act had the support of over two-thirds of the U.S. Senate, nearly every U.S. Governor, and an overwhelming majority of the American people. Unfortunately, it did not have the support of two crucial parties, President Bush who vetoed it and his Republican friends who voted to uphold his veto.

Instead of helping us extend health care to low-income children, the President claims this fully-paid-for bill is excessive spending and instead he proposes to spend just $5 billion more than we do now on the CHIP program. According to the Congressional Budget Office, the President's plan will lead to more than 800,000 children losing their coverage.

Mr. Speaker, I would like to know how the President and his Republican enablers would determine which 800,000 children lose their coverage. And what do they tell the 4 million children who are currently eligible for CHIP, but will have no hope of getting this coverage unless our bipartisan bill passes? It is time for Republicans in this body to reject the President's plan to cut health care for children and stand with us in strengthening the CHIP program.

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COMBATING THE EMERALD ASH BORER

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

Mr. ROSKAM. Mr. Speaker, I rise today and urge my colleagues to join with me and our colleague Mr. KIRK in cosponsoring H.R. 3901, the Emerald Ash Borer Municipality Assistance Act.

What is an emerald ash borer, you may ask. Well, it is a nasty little bug that has found its way on to our shores, which has a very aggressive disposition towards ash trees in particular. It is a native of China, and there are no known natural predators here in the United States.

If you think of the districts that we all represent, many of them have beautiful canopies of trees that line our streets and create wonderful natural ways all throughout our districts. Yet this bug has shown up in Illinois, my State; Indiana; Michigan; Ohio; Pennsylvania; Maryland and West Virginia.

As one researcher of the Morton Arboretum, which I represent, said, ''The emerald ash borer doesn't just kill a majority of the ash trees it encounters; it seems to kill them all.''

This legislation creates a revolving loan fund whereby municipalities have access to those moneys, and they use it in order to take on this scourge.

PROVIDING HEALTH CARE FOR MILLIONS OF AMERICAN CHILDREN

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

Mr. WALZ of Minnesota. Mr. Speaker, last week 10 million children were denied health insurance because some of my colleagues on the Republican side of the aisle chose to stand with President Bush over the children.

It is disappointing that some of our colleagues stood with the President and stood with the smoke-and-mirrors campaign to distort what the SCHIP legislation was. But this is not the end; it is only the beginning of the effort of this Congress to stand with American families to protect health care for our children.

Democrats in this body, along with 68 Members of the Senate and 43 of our Nation's Governors and over 80 percent of the American public want this piece of legislation to move. We are committed to ensuring that States have the resources and flexibility necessary to enroll these children.

Mr. Speaker, the American people, Governors and many Members of Congress, both Democrat and Republican,

were disappointed that more of our colleagues on the Republican side of the aisle didn't vote to override the veto. However, we will give them the opportunity soon and often to change that vote, stand with America's children, and reject the President's veto.

DEMAND THAT HOUSE APPOINT CONFEREES ON VA APPROPRIATIONS

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute.)

Mrs. BLACKBURN. Mr. Speaker, more than 4 months ago the House passed an appropriations bill designed to provide benefits for our soldiers and veterans. H.R. 2642 passed the House by an overwhelming 409–2 vote. A similar bill went through the Senate 92–1. But since then, nothing has happened.

It has been 131 days since we passed the legislation, and still nothing has been sent to the President's desk for him to sign. The Senate appointed conferees to hammer out a compromise between the two bills 6 weeks ago. But the House leadership? Nothing has been done.

The question is why. Why would the new majority play politics with the health care of our brave men and women in uniform? There is no reason, a month into this fiscal year, that the bill is unresolved.

I ask all my colleagues, all 408 of them who voted for this bill, to demand that the House appoint conferees. Stop doing nothing. Do what needs to be done to meet the needs of our men and women in uniform.

CONGRATULATING THE UNITED NATIONS ON UNITED NATIONS DAY

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

Mr. FARR. Mr. Speaker, I rise on a happy note. It is a happy birthday today, the birthday of the United Nations. It was 62 years ago when 50 countries gathered in the great City of San Francisco, California, to make the cause of international peace and security a global mantra and launched the United Nations. It was a good idea then, and 62 years later, it is still a good idea.

In a world that is tense with war, the U.N. fights for peace every day. Where hunger plagues the poor, the U.N. provides food aid to more than 80 million people every day, every year. In 166 nations that suffer devastating poverty, the U.N. offers proactive programs to buttress economic development. And, most important of all, the U.N. deploys 100,000 peacekeepers around the world on missions vital to stabilization of regions under threat of conflict.

The answer to global distress is found in solving the problems that are the root causes of poverty, the lack of health care, shelter and legislation. The U.N. is the only organization worldwide dedicated to this grand mission.

I congratulate the United Nations for its hard work, and ask Members of this body to support and invigorate America's commitment to this vital international organization.

SUPPORT THE SCHIP REAUTHORIZATION

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

Ms. SOLIS. Mr. Speaker, I rise today in support of reauthorizing the Children's Health Insurance Program. President Bush, as you know, has callously denied health care for 10 million poor children due to his misplaced priorities.

More than 800,000 children in my home State of California depend on the Healthy Families Program. More than half of those children happen to be Hispanic. The health of millions of children will be endangered and millions more will continue to suffer if we do not reauthorize this program.

We in Congress have an incredible opportunity to do what is right for our children, especially those children who are disadvantaged and come from low-income families. All children, regardless of race, income or geography deserve a healthy start in life.

It is time to end this false allegation that undocumented immigrants are receiving this coverage. Ten million children are counting on us to do the right thing. We have a moral obligation to protect the health and well-being of all of our children.

IRAQI CONTRACTS WITH IRAN AND CHINA CONCERN UNITED STATES

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

Mr. ENGEL. Mr. Speaker, a very disturbing report has come out that Iraq has agreed to award $1.1 billion in contracts to Iranian and Chinese companies to build a pair of enormous power plants. That is what the Iraqi Minister of Electricity said on Tuesday. Word of the project prompted serious concerns among American military officials who fear that Iranian commercial investments can mask military activities at a time of our heightened tension with Iran.

Mr. Speaker, at a time when young Americans are dying in Iraq and when the U.S. is spending billions of dollars in Iraq, this makes absolutely no sense at all. The Iraqi Electricity Minister said that the Iranian project would be built in Sadr City, a Shiite enclave in Baghdad that is controlled by followers of the anti-American cleric Moqtada al-Sadr. He added that Iran had also agreed to provide cheap electricity from its own grid to southern Iraq and to build a large power plant, essentially free of charge, in an area between two Shiite holy cities.

The expansion of ties between Iraq and Iran comes as the U.S. and Iran clash on nuclear issues and about what American officials had repeatedly said was Iranian support for armed groups. This is an outrage and should not stand.

THE PRESIDENT'S MISPLACED PRIORITIES: WHAT WE COULD DO HERE WITH MONEY GOING TO IRAQ

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

Mr. ARCURI. Mr. Speaker, earlier this week, President Bush proposed that our Nation spend another $196 billion in Iraq next year. Today we will spend $330 million fighting the war in Iraq. Imagine that. Every day, $330 million in taxpayer dollars is going to Iraq.

Just imagine for one moment what we could do here in the United States with that money instead. We could hire an additional 1,700 Border Patrol agents to work our borders for an entire year. We could provide health care to 50,000 more veterans so they receive the essential health care treatment that they need. We could enroll 46,000 more children in Head Start for 1 year, so they can receive early childhood education. If we took 1 day of funding from the Iraq war, we could help nearly 800,000 families keep their heat on this winter through the LIHEAP program. We could provide 270,000 more children health care coverage through the CHIP program.

Mr. Speaker, while President Bush has no problem sending billions of dollars to Iraq, he is neglecting essential needs here in America. The Democratic majority in this Congress refuses to follow that lead.

BUSH NEGLECTS DOMESTIC PRIORITIES TO CONTINUE TO FOCUS ON WAR IN IRAQ

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

Mr. YARMUTH. Mr. Speaker, when President Bush vetoed a bill earlier this month that would provide health care coverage to 10 million American children, he said the spending was excessive. The bipartisan bill invested $35 billion more in children's health over a 5-year period. Three weeks later, President Bush announces that he needs $196 billion to fight the war in Iraq over the next year. If $35 billion for children's health is excessive, what exactly is his request for the war?

I know the President believes that Congress is his personal ATM machine, but article I of the Constitution says different, and we will not rubber-stamp his funding request for the war.

As we have in the past, Democrats will continue to exert pressure on the administration to change course in Iraq so that we can begin to bring the

troops home. There is no military solution to the war; yet the Bush administration refuses to put pressure on the Iraqi Government to enact the political reforms that are necessary to bring about stability in the country.

While we push the administration to change course in Iraq, we also remain firm in our conviction to pass the children's health care bill that covers 10 million American children.

CELEBRATING AMERICA'S HERITAGE ACT

Mr. RAHALL. Mr. Speaker, pursuant to House Resolution 765, I call up the bill (H.R. 1483) to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSIONS AND TECHNICAL CHANGES.

(a) IN GENERAL.—Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 16 U.S.C. 461 note) is amended—

(1) in each of sections 107, 208, 310, 408, 507, 607, 707, 811, and 910, by striking ''September 30, 2012'' and inserting ''September 30, 2027''; and

(2) in each of sections 108(a), 209(a), 311(a), 409(a), 508(a), 608(a), 708(a), 812(a), and 909(c), by striking ''$10,000,000'' and inserting ''$20,000,000''.

(b) OHIO & ERIE NATIONAL HERITAGE CANALWAY.—Title VIII of Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4267, 114 Stat. 31) is amended—

(1) by striking ''Canal National Heritage Corridor'' each place it appears and inserting ''National Heritage Canalway'';

(2) in section 803—

(A) by striking paragraph paragraph (2);

(B) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B)), by striking ''808'' and inserting ''806''; and

(D) in paragraph (6) (as redesignated by subparagraph (B)), by striking ''807(a)'' and inserting ''805(a)'';

(3) in the second sentence of section 804(b)(1), by striking ''808'' and inserting ''806'';

(4) by striking sections 805 and 806;

(5) by redesignating sections 807, 808, 809, 810, 811, and 812 as sections 805, 806, 807, 808, 809, and 810, respectively;

(6) in section 805(c)(2) (as redesignated by paragraph (5)), by striking ''808'' and inserting ''806'';

(7) in section 806 (as redesignated by paragraph (5))—

(A) in subsection (a)(1), by striking ''Committee'' and inserting ''Secretary'';

(B) in subsection (a)(3)—

(i) in subparagraph (A), by striking ''from the Committee''; and

(ii) in the first sentence of subparagraph (B), by striking ''Committee'' and inserting ''management entity'';

(C) in subsection (e), by striking ''807(d)(1)'' and inserting ''805(d)(1)''; and

(D) in subsection (f), by striking ''807(d)(1)'' and inserting ''805(d)(1)'';

(8) in section 808 (as redesignated by paragraph (5))—

(A) in subsection (b), by striking ''Committee or''; and

(B) in subsection (c) in the matter before paragraph (1), by striking ''Committee'' and inserting ''management entity''.

(c) NATIONAL COAL HERITAGE AREA AMENDMENTS.—Title I of Division II of the Omnibus Parks and Public Lands Management Act of 1996 is amended as follows:

(1) In section 103(b)—

(A) by striking ''comprised of the counties'' and inserting ''shall be comprised of the following:

''(1) The counties''; and

(B) by inserting after paragraph (1) (as so designated by paragraph (1) of this subsection) the following new paragraphs:

''(2) Lincoln County, West Virginia.

''(3) Paint Creek and Cabin Creek within Kanawha County, West Virginia.''.

(2) In section 104, by striking ''Governor'' and all that follows through ''organizations'' and inserting ''National Coal Heritage Area Authority, a public corporation and government instrumentality established by the State of West Virginia, pursuant to which the Secretary shall assist the National Coal Heritage Area Authority''.

(3) In section 105—

(A) by striking ''paragraphs (2) and (5) of''; and

(B) by adding at the end the following: ''Resources within Lincoln County, West Virginia, and Paint Creek and Cabin Creek within Kanawha County, West Virginia, shall also be eligible for assistance as determined by the National Coal Heritage Area Authority.''.

(4) In section 106—

(A) by striking ''Governor'' and all that follows through ''and Parks'' and inserting ''National Coal Heritage Area Authority''; and

(B) in subsection (a)(3), by striking ''State of West Virginia'' and all that follows through ''entities'' and inserting ''National Coal Heritage Area Authority''.

(d) CONTINUATION OF AGREEMENT.—The contractual agreement entered into by the Secretary of the Interior and the Governor of West Virginia prior to the date of enactment of this Act pursuant to section 104 of title I of Division II of the Omnibus Parks and Public Lands Management Act of 1996 shall be deemed as continuing in effect except that such agreement shall be between the Secretary and the National Coal Heritage Area Authority.

(e) SOUTH CAROLINA HERITAGE AREA AMENDMENT.—Section 604(b)(2) of title VI of Division II of the Omnibus Parks and Public Lands Management Act of 1996 is amended by adding at the end the following new subparagraph:

''(O) Berkeley County.''.

The SPEAKER pro tempore (Mr. PASTOR). Pursuant to House Resolution 765, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in House Report 110–405, is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 1483

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 ''Celebrating America's Heritage Act''.

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION EXTENSIONS AND VIABILITY STUDIES

Sec. 1001. Extensions of authorized appropriations.
Sec. 1002. Evaluation and report.

TITLE II—ESTABLISHMENT OF NATIONAL HERITAGE AREAS

Subtitle A—Journey Through Hallowed Ground National Heritage Area

Sec. 2001. Short title; table of contents.
Sec. 2002. Purposes.
Sec. 2003. Definitions.
Sec. 2004. Designation of the Journey Through Hallowed Ground National Heritage Area.
Sec. 2005. Management plan.
Sec. 2006. Evaluation; report.
Sec. 2007. Local coordinating entity.
Sec. 2008. Relationship to other Federal agencies.
Sec. 2009. Private property and regulatory protections.
Sec. 2010. Authorization of appropriations.
Sec. 2011. Use of Federal funds from other sources.
Sec. 2012. Sunset for grants and other assistance.

Subtitle B—Niagara Falls National Heritage Area

Sec. 2021. Short title; table of contents.
Sec. 2022. Purposes.
Sec. 2023. Definitions.
Sec. 2024. Designation of the Niagara Falls National Heritage Area.
Sec. 2025. Management plan.
Sec. 2026. Evaluation; report.
Sec. 2027. Local coordinating entity.
Sec. 2028. Niagara Falls Heritage Area Commission.
Sec. 2029. Relationship to other Federal agencies.
Sec. 2030. Private property and regulatory protections.
Sec. 2031. Authorization of appropriations.
Sec. 2032. Use of Federal funds from other sources.
Sec. 2033. Sunset for grants and other assistance.

Subtitle C—Muscle Shoals National Heritage Area

Sec. 2041. Short title; table of contents.
Sec. 2042. Purposes.
Sec. 2043. Definitions.
Sec. 2044. Designation of Muscle Shoals National Heritage Area.
Sec. 2045. Management plan.
Sec. 2046. Evaluation; report.
Sec. 2047. Local coordinating entity.
Sec. 2048. Relationship to other Federal agencies.
Sec. 2049. Private property and regulatory protections.
Sec. 2050. Authorization of appropriations.
Sec. 2051. Use of Federal funds from other sources.
Sec. 2052. Sunset for grants and other assistance.

Subtitle D—Freedom's Way National Heritage Area

Sec. 2061. Short title; table of contents.
Sec. 2062. Purposes.
Sec. 2063. Definitions.
Sec. 2064. Designation of Freedom's Way National Heritage Area.
Sec. 2065. Management plan.
Sec. 2066. Evaluation; report.
Sec. 2067. Local coordinating entity.
Sec. 2068. Relationship to other Federal agencies.
Sec. 2069. Private property and regulatory protections.
Sec. 2070. Authorization of appropriations.
Sec. 2071. Use of Federal funds from other sources.

Sec. 2072. Sunset for grants and other assistance.

Subtitle E—Abraham Lincoln National Heritage Area

Sec. 2081. Short title; table of contents.
Sec. 2082. Purposes.
Sec. 2083. Definitions.
Sec. 2084. Designation of Abraham Lincoln National Heritage Area.
Sec. 2085. Management plan.
Sec. 2086. Evaluation; report.
Sec. 2087. Local coordinating entity.
Sec. 2088. Relationship to other Federal agencies.
Sec. 2089. Private property and regulatory protections.
Sec. 2090. Authorization of appropriations.
Sec. 2091. Use of Federal funds from other sources.
Sec. 2092. Sunset for grants and other assistance.

Subtitle F—Santa Cruz Valley National Heritage Area

Sec. 2111. Short title; table of contents.
Sec. 2112. Purposes.
Sec. 2113. Definitions.
Sec. 2114. Designation of Santa Cruz Valley National Heritage Area.
Sec. 2115. Management plan.
Sec. 2116. Evaluation; report.
Sec. 2117. Local coordinating entity.
Sec. 2118. Relationship to other Federal agencies.
Sec. 2119. Private property and regulatory protections.
Sec. 2120. Authorization of appropriations.
Sec. 2121. Use of Federal funds from other sources.
Sec. 2122. Sunset for grants and other assistance.

TITLE III—STUDY

Sec. 3001. Study and report of proposed Northern Neck National Heritage Area.

TITLE IV—TECHNICAL CORRECTIONS AND ADDITIONS

Sec. 4001. National Coal Heritage Area technical corrections.
Sec. 4002. Rivers of steel national heritage area addition.
Sec. 4003. South Carolina National Heritage Corridor addition.
Sec. 4004. Ohio and Erie Canal National Heritage Corridor technical corrections.
Sec. 4005. New Jersey Coastal Heritage trail route extension of authorization.
Sec. 4006. Erie Canalway National Heritage Corridor technical corrections.

TITLE V—SENSE OF CONGRESS REGARDING FUNDING

Sec. 5001. Sense of Congress Regarding Funding.

TITLE I—AUTHORIZATION EXTENSIONS AND VIABILITY STUDIES

SEC. 1001. EXTENSIONS OF AUTHORIZED APPROPRIATIONS.

Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 16 U.S.C. 461 note) is amended in each of sections 108(a), 209(a), 311(a), 409(a), 508(a), 608(a), 708(a), 810(a) (as redesignated by this Act), and 909(c), by striking ''$10,000,000'' and inserting ''$15,000,000''.

SEC. 1002. EVALUATION AND REPORT.

(a) IN GENERAL.—For the nine National Heritage Areas authorized in Division II of the Omnibus Parks and Public Lands Management Act of 1996, not later than 3 years before the date on which authority for Federal funding terminates for each National Heritage Area, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local management entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the investments of Federal, State, Tribal, and local government and private entities in each National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

TITLE II—ESTABLISHMENT OF NATIONAL HERITAGE AREAS

Subtitle A—Journey Through Hallowed Ground National Heritage Area

SEC. 2001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Journey Through Hallowed Ground National Heritage Area Act''.

(b) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 2001. Short title; table of contents.
Sec. 2002. Purposes.
Sec. 2003. Definitions.
Sec. 2004. Designation of the Journey Through Hallowed Ground National Heritage Area.
Sec. 2005. Management plan.
Sec. 2006. Evaluation; report.
Sec. 2007. Local coordinating entity.
Sec. 2008. Relationship to other Federal agencies.
Sec. 2009. Private property and regulatory protections.
Sec. 2010. Authorization of appropriations.
Sec. 2011. Use of Federal funds from other sources.
Sec. 2012. Sunset for grants and other assistance.

SEC. 2002. PURPOSES.

(a) The purposes of this subtitle include—

(1) to recognize the national importance of the natural and cultural legacies of the area, as demonstrated in the study entitled ''The Journey Through Hallowed Ground National Heritage Area Feasibility Study'' dated September 2006;

(2) to preserve, support, conserve, and interpret the legacy of the American history created along the National Heritage Area;

(3) to promote heritage, cultural and recreational tourism and to develop educational and cultural programs for visitors and the general public;

(4) to recognize and interpret important events and geographic locations representing key developments in the creation of America, including Native American, Colonial American, European American, and African American heritage;

(5) to recognize and interpret the effect of the Civil War on the civilian population of the National Heritage Area during the war and postwar reconstruction period;

(6) to enhance a cooperative management framework to assist the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the State of West Virginia, and their units of local government, the private sector, and citizens residing in the National Heritage Area in conserving, supporting, enhancing, and interpreting the significant historic, cultural and recreational sites in the National Heritage Area; and

(7) to provide appropriate linkages among units of the National Park System within and surrounding the National Heritage Area, to protect, enhance, and interpret resources outside of park boundaries.

SEC. 2003. DEFINITIONS.

In this subtitle—

(1) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means the Journey Through Hallowed Ground National Heritage Area established in this subtitle.

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Journey Through Hallowed Ground Partnership, a Virginia non-profit, which is hereby designated by Congress—

(A) to develop, in partnership with others, the management plan for the National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for the National Heritage Area that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with this subtitle.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 2004. DESIGNATION OF THE JOURNEY THROUGH HALLOWED GROUND NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Journey Through Hallowed Ground National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Area shall consist of the 175-mile region generally following the Route 15 corridor and surrounding areas from Adams County, Pennsylvania, through Frederick County, Maryland, including the Heart of the Civil War Maryland State Heritage Area, looping through Brunswick, Maryland, to Harpers Ferry, West Virginia, back through Loudoun County, Virginia, to the Route 15 corridor and surrounding areas encompassing portions of Loudoun and Prince William Counties, Virginia, then Fauquier County, Virginia, portions of Spotsylvania and Madison Counties, Virginia, and Culpepper, Rappahannock, Orange, and Albemarle Counties, Virginia.

(2) MAP.—The boundaries of the National Heritage Area shall include all of those lands and interests as generally depicted on the map titled ''Journey Through Hallowed Ground National Heritage Area'', numbered P90/80,000, and dated October 2006. The map shall be on file and available to the public in the appropriate offices of the National Park Service and the local coordinating entity.

SEC. 2005. MANAGEMENT PLAN.

(a) REQUIREMENTS.—The management plan for the National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, Tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, Tribal or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, Tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this subtitle; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including Federal, State, Tribal, and local governments, natural, and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and Federal, State, Tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State, Tribal, and local officials whose support is needed to ensure the effective implementation of the State, Tribal, and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, Tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this subtitle to implement an amendment to the management plan until the Secretary approves the amendment.

(6) AUTHORITIES.—The Secretary may—

(A) provide technical assistance under the authority of this subtitle for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this subtitle.

SEC. 2006. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this subtitle, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the Federal, State, Tribal, local, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

SEC. 2007. LOCAL COORDINATING ENTITY.

(a) DUTIES.—To further the purposes of the National Heritage Area, the Journey Through Hallowed Ground Partnership, as the local coordinating entity, shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with this subtitle;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this subtitle to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this subtitle to acquire any interest in real property.

SEC. 2008. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this subtitle affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this subtitle—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 2009. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this subtitle—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, Tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, Tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority (such as the authority to make safety improvements or increase the capacity of existing roads or to construct new roads) of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including but not necessarily limited to development and management of energy or water or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 2010. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle not more than $1,000,000 for any fiscal year. Funds so appropriated shall remain available until expended.

(b) LIMITATION ON TOTAL AMOUNTS APPROPRIATED.—Not more than $15,000,000 may be appropriated to carry out this subtitle.

(c) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this subtitle shall be not more than 50 percent; the non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

SEC. 2011. USE OF FEDERAL FUNDS FROM OTHER SOURCES.

Nothing in this subtitle shall preclude the local coordinating entity from using Federal funds available under other laws for the purposes for which those funds were authorized.

SEC. 2012. SUNSET FOR GRANTS AND OTHER ASSISTANCE.

The authority of the Secretary to provide financial assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this subtitle.

Subtitle B—Niagara Falls National Heritage Area

SEC. 2021. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Niagara Falls National Heritage Area Act''.

(b) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 2021. Short title; table of contents.
Sec. 2022. Purposes.
Sec. 2023. Definitions.
Sec. 2024. Designation of the Niagara Falls National Heritage Area.
Sec. 2025. Management plan.
Sec. 2026. Evaluation; report.
Sec. 2027. Local coordinating entity.
Sec. 2028. Niagara Falls Heritage Area Commission.
Sec. 2029. Relationship to other Federal agencies.
Sec. 2030. Private property and regulatory protections.
Sec. 2031. Authorization of appropriations.
Sec. 2032. Use of Federal funds from other sources.
Sec. 2033. Sunset for grants and other assistance.

SEC. 2022. PURPOSES.

(a) The purposes of this subtitle include—

(1) to recognize the national importance of the natural and cultural legacies of the area, as demonstrated in the National Park Service study report entitled ''Niagara National Heritage Area Study'' dated 2005;

(2) to preserve, support, conserve, and interpret the natural, scenic, cultural, and historic resources within the National Heritage Area;

(3) to promote heritage, cultural and recreational tourism and to develop educational and cultural programs for visitors and the general public;

(4) to recognize and interpret important events and geographic locations representing key developments in American history and culture, including Native American, Colonial American, European American, and African American heritage;

(5) to enhance a cooperative management framework to assist State, local, and Tribal governments, the private sector, and citizens residing in the National Heritage Area in conserving, supporting, enhancing, and interpreting the significant historic, cultural, and recreational sites in the National Heritage Area;

(6) to conserve and interpret the history of the development of hydroelectric power in the United States and its role in developing the American economy; and

(7) to provide appropriate linkages among units of the National Park System within and surrounding the National Heritage Area, to protect, enhance, and interpret resources outside of park boundaries.

SEC. 2023. DEFINITIONS.

In this subtitle—

(1) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means the Niagara Falls National Heritage Area established in this subtitle.

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the National Heritage Area designated pursuant to this subtitle.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for the National Heritage Area that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with this subtitle.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) COMMISSION.—The term ''Commission'' means the Niagara Falls National Heritage Area Commission established under this subtitle.

(6) GOVERNOR.—The term ''Governor'' means the Governor of the State of New York.

SEC. 2024. DESIGNATION OF THE NIAGARA FALLS NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Niagara Falls National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The National Heritage Area shall consist of the area from the western boundary of the town of Wheatfield, New York, extending to the mouth of the Niagara River on Lake Ontario, including the city of Niagara Falls, New York, the villages of Youngstown and Lewiston, New York, land and water within the boundaries of the Heritage Area in Niagara County, New York, and any additional thematically related sites within Erie and Niagara Counties, New York, that are identified in the management plan developed under this subtitle.

(2) MAP.—The boundaries of the National Heritage Area shall be as generally depicted on the map titled ''Niagara Falls National Heritage Area,'' and numbered P76/80,000 and dated July, 2006. The map shall be on file and available to the public in the appropriate offices of the National Park Service and the local coordinating entity.

SEC. 2025. MANAGEMENT PLAN.

(a) REQUIREMENTS.—The management plan for the National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, Tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, Tribal, or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, Tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this subtitle; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for

a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including Federal, State, Tribal, and local governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and Federal, State, Tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State, Tribal, and local officials whose support is needed to ensure the effective implementation of the State, Tribal, and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, Tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this subtitle to implement an amendment to the management plan until the Secretary approves the amendment.

(6) AUTHORITIES.—The Secretary may—

(A) provide technical assistance under the authority of this subtitle for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this subtitle

SEC. 2026. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this subtitle the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the Federal, State, Tribal, and local, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

SEC. 2027. LOCAL COORDINATING ENTITY.

(a) DESIGNATION.—The local coordinating entity for the Heritage Area shall be—

(1) for the 5-year period beginning on the date of enactment of this subtitle, the Commission; and

(2) on expiration of the 5-year period described in subparagraph (1), a private nonprofit or governmental organization designated by the Commission.

(b) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity, shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with this subtitle;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, all information pertaining to the expenditure of the funds and any matching funds;

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area; and

(5) coordinate projects, activities, and programs with the Erie Canalway National Heritage Corridor.

(c) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this subtitle to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(d) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this subtitle to acquire any interest in real property.

SEC. 2028. NIAGARA FALLS HERITAGE AREA COMMISSION.

(a) ESTABLISHMENT.—There is established within the Department of the Interior the Niagara Falls National Heritage Area Commission.

(b) MEMBERSHIP.—The Commission shall be composed of 17 members, of whom—

(1) 1 member shall be the Director of the National Park Service (or a designee);

(2) 5 members shall be appointed by the Secretary, after consideration of the recommendation of the Governor, from among individuals with knowledge and experience of—

(A) the New York State Office of Parks, Recreation and Historic Preservation, the Niagara River Greenway Commission, the New York Power Authority, the USA Niagara Development Corporation, and the Niagara Tourism and Convention Corporation; or

(B) any successors of the agencies described in subparagraph (A);

(3) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the mayor of Niagara Falls, New York;

(4) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the mayor of the village of Youngstown, New York;

(5) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the mayor of the village of Lewiston, New York;

(6) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the Tuscarora Nation;

(7) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the Seneca Nation of Indians; and

(8) 6 members shall be individuals who have an interest in, support for, and expertise appropriate to tourism, regional planning, history and historic preservation, cultural or natural resource management, conservation, recreation, and education, or museum services, of whom—

(A) 4 members shall be appointed by the Secretary, after consideration of the recommendation of the 2 members of the Senate from the State; and

(B) 2 members shall be appointed by the Secretary, after consideration of the recommendation of the Member of the House of Representatives whose district encompasses the National Heritage Area.

(c) TERMS; VACANCIES.—

(1) TERM.—A member of the Commission shall be appointed for a term not to exceed 5 years.

(2) VACANCIES.—

(A) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(B) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner as the original appointment was made.

(d) CHAIRPERSON AND VICE CHAIRPERSON.—

(1) SELECTION.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(2) VICE CHAIRPERSON.—The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson.

(e) QUORUM.—

(1) IN GENERAL.—A majority of the members of the Commission shall constitute a quorum.

(2) TRANSACTION.—For the transaction of any business or the exercise of any power of the Commission, the Commission shall have the power to act by a majority vote of the members present at any meeting at which a quorum is in attendance.

(f) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at least quarterly at the call of—

(A) the Chairperson; or

(B) a majority of the members of the Commission.

(2) NOTICE.—Notice of Commission meetings and agendas for the meetings shall be published in local newspapers that are distributed throughout the National Heritage Area.

(3) APPLICABLE LAW.—Meetings of the Commission shall be subject to section 552b of title 5, United States Code.

(g) AUTHORITIES OF THE COMMISSION.—In addition to the authorities otherwise granted in this subtitle, the Commission may—

(1) request and accept from the head of any Federal agency, on a reimbursable or non-reimbursable basis, any personnel of the Federal agency to the Commission to assist in carrying out the duties of the Commission;

(2) request and accept from the head of any State agency or any agency of a political subdivision of the State, on a reimbursable or non-reimbursable basis, any personnel of the agency to the Commission to assist in carrying out the duties of the Commission;

(3) seek, accept, and dispose of gifts, bequests, grants, or donations of money, personal property, or services; and

(4) use the United States mails in the same manner as other agencies of the Federal Government.

(h) DUTIES OF THE COMMISSION.—To further the purposes of the National Heritage Area, in addition to the duties otherwise listed in this subtitle, the Commission shall assist in the transition of the management of the National Heritage Area from the Commission to the local coordinating entity designated under this subtitle.

(i) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—A member of the Commission shall serve without compensation.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(j) GIFTS.—For purposes of section 170(c) of the Internal Revenue Code of 1986, any gift or charitable contribution to the Commission shall be considered to be a charitable contribution or gift to the United States.

(k) USE OF FEDERAL FUNDS.—Except as provided for the leasing of administrative facilities under subsection (g)(1), the Commission may not use Federal funds made available to the Commission under this subtitle to acquire any real property or interest in real property.

SEC. 2029. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this subtitle affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this subtitle—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 2030. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this subtitle—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, Tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, Tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including but not necessarily limited to development and management of energy, water, or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 2031. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle not more than $1,000,000 for any fiscal year. Funds so appropriated shall remain available until expended.

(b) LIMITATION ON TOTAL AMOUNTS APPROPRIATED.—Not more than $15,000,000 may be appropriated to carry out this subtitle.

(c) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this subtitle shall be not more than 50 percent; the non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

SEC. 2032. USE OF FEDERAL FUNDS FROM OTHER SOURCES.

Nothing in this subtitle shall preclude the local coordinating entity from using Federal funds available under other laws for the purposes for which those funds were authorized.

SEC. 2033. SUNSET FOR GRANTS AND OTHER ASSISTANCE.

The authority of the Secretary to provide financial assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this subtitle.

Subtitle C—Muscle Shoals National Heritage Area

SEC. 2041. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Muscle Shoals National Heritage Area Act''.

(b) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 2041. Short title; table of contents.
Sec. 2042. Purposes.
Sec. 2043. Definitions.
Sec. 2044. Designation of Muscle Shoals National Heritage Area.
Sec. 2045. Management plan.
Sec. 2046. Evaluation; report.
Sec. 2047. Local coordinating entity.
Sec. 2048. Relationship to other Federal agencies.
Sec. 2049. Private property and regulatory protections.
Sec. 2050. Authorization of appropriations.
Sec. 2051. Use of Federal funds from other sources.
Sec. 2052. Sunset for grants and other assistance.

SEC. 2042. PURPOSES.

The purposes of this subtitle include—

(1) to preserve, support conserve and interpret the legacy of the region represented by the National Heritage Area as described in the feasibility study prepared by the National Park Service;

(2) to promote heritage, cultural and recreational tourism and to develop educational and cultural programs for visitors and the general public;

(3) to recognize and interpret important events and geographic locations representing key developments in the growth of America, including Native American, Colonial American, European American, and African American heritage;

(4) to recognize and interpret how the distinctive geography of the region shaped the development of settlement, defense, transportation, commerce, and culture there;

(5) to provide a cooperative management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the region in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations; and

(6) to provide appropriate linkages between units of the National Park System and communities, governments, and organizations within the National Heritage Area.

SEC. 2043. DEFINITIONS.

In this subtitle:

(1) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means the Muscle Shoals National Heritage Area established in this subtitle.

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Muscle Shoals Regional Center, which is hereby designated by Congress—

(A) to develop, in partnership with others, the management plan for the National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for the National Heritage Area that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with this subtitle.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 2044. DESIGNATION OF MUSCLE SHOALS NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Muscle Shoals National Heritage Area in the State of Alabama.

(b) BOUNDARIES.—

(1) IN GENERAL.—The National Heritage Area shall be comprised of the counties of Colbert, Franklin, Lauderdale, Lawrence, Limestone, and Morgan; including the Wilson Dam; the Handy Home; and the Helen Keller birthplace.

(2) MAP.—The boundary of the National Heritage Area shall be as generally depicted on the map titled ''Muscle Shoals National Heritage Area'', numbered T08/80,000, and dated October 2007. The map shall be on file and available to the public in the appropriate offices of the National Park Service and the local coordinating entity.

SEC. 2045. MANAGEMENT PLAN.

(a) REQUIREMENTS.—The management plan for the National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the

story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, Tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, Tribal, or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, Tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this subtitle; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including Federal, State, Tribal, and local governments, natural, and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and Federal, State, Tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State, Tribal, and local officials whose support is needed to ensure the effective implementation of the State, Tribal, and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, Tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this subtitle to implement an amendment to the management plan until the Secretary approves the amendment.

(6) AUTHORITIES.—The Secretary may—

(A) provide technical assistance under the authority of this subtitle for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this subtitle.

SEC. 2046. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this subtitle, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the Federal, State, Tribal, and local, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

SEC. 2047. LOCAL COORDINATING ENTITY.

(a) DUTIES.—To further the purposes of the National Heritage Area, the Muscle Shoals Regional Center, as the local coordinating entity, shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with this subtitle;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this subtitle to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this subtitle to acquire any interest in real property.

SEC. 2048. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this subtitle affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a

National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this subtitle—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 2049. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this subtitle—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, Tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, Tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including but not necessarily limited to development and management of energy, water, or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 2050. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle not more than $1,000,000 for any fiscal year. Funds so appropriated shall remain available until expended.

(b) LIMITATION ON TOTAL AMOUNTS APPROPRIATED.—Not more than $15,000,000 may be appropriated to carry out this subtitle.

(c) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this subtitle shall be not more than 50 percent; the non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

SEC. 2051. USE OF FEDERAL FUNDS FROM OTHER SOURCES.

Nothing in this subtitle shall preclude the local coordinating entity from using Federal funds available under other laws for the purposes for which those funds were authorized.

SEC. 2052. SUNSET FOR GRANTS AND OTHER ASSISTANCE.

The authority of the Secretary to provide financial assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this subtitle.

Subtitle D—Freedom's Way National Heritage Area

SEC. 2061. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Freedom's Way National Heritage Area Act''.

(b) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 2061. Short title; table of contents.
Sec. 2062. Purposes.
Sec. 2063. Definitions.
Sec. 2064. Designation of Freedom's Way National Heritage Area.
Sec. 2065. Management plan.
Sec. 2066. Evaluation; report.
Sec. 2067. Local coordinating entity.
Sec. 2068. Relationship to other Federal agencies.
Sec. 2069. Private property and regulatory protections.
Sec. 2070. Authorization of appropriations.
Sec. 2071. Use of Federal funds from other sources.
Sec. 2072. Sunset for grants and other assistance.

SEC. 2062. PURPOSES.

(a) The purposes of this subtitle include—

(1) to recognize the significant natural and cultural legacies of the area, as demonstrated in the study entitled ''Freedom's Way Heritage Area Feasibility Study'' dated July 1997 and the addendum dated March 2003;

(2) to promote heritage, cultural and recreational tourism and to develop educational and cultural programs for visitors and the general public;

(3) to foster a close working relationship between the Secretary and all levels of government, the private sector, and local communities in the Commonwealth of Massachusetts and the State of New Hampshire in order to preserve the special historic identity of the National Heritage Area;

(4) to manage, preserve, protect and interpret the cultural, historical, and natural resources of the National Heritage Area for the educational and inspirational benefit of future generations; and

(5) to provide appropriate linkages between units of the National Park System and communities, governments, and organizations within the National Heritage Area.

SEC. 2063. DEFINITIONS.

In this subtitle:

(1) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means the Freedom's Way National Heritage Area established in this subtitle.

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Freedom's Way Heritage Association, Inc., which is hereby designated by Congress—

(A) to develop, in partnership with others, the management plan for the National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for the National Heritage Area that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with this subtitle.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 2064. DESIGNATION OF FREEDOM'S WAY NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Freedom's Way National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The National Heritage Area shall include the following communities in the Commonwealth of Massachusetts: Winchendon, Ashburnham, Ashby, Gardner, Fitchburg, Westminster, Princeton, Sterling, Leominster, Townsend, Pepperell, Lunenburg, Shirley, Lancaster, Clinton, Bolton, Harvard, Ayer, Groton, Dunstable, Westford, Littleton, Boxborough, Stow, Hudson, Maynard, Sudbury, Concord, Carlisle, Acton, Bedford, Lincoln, Lexington, Woburn, Arlington, Medford, and Malden. Additionally it shall include the following communities in the State of New Hampshire: New Ipswich, Greenville, Mason, Brookline, Milford, Amherst, Hollis, and Nashua.

(2) MAP.—The boundaries of the National Heritage area shall be as generally depicted on the map titled ''Freedom's Way National Heritage Area'', numbered T04/80,000, and dated July 2007. The map shall be on file and available to the public in the appropriate offices of the National Park Service and the local coordinating entity.

SEC. 2065. MANAGEMENT PLAN.

(a) REQUIREMENTS.—The management plan for the National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, Tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, Tribal, or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, Tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this subtitle; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for the National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State or Commonwealth in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including Federal, State, Tribal, and local governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and Federal, State, Tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State, Tribal, and local officials whose support is needed to ensure the effective implementation of the State, Tribal, and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, Tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this subtitle to implement an amendment to the management plan until the Secretary approves the amendment.

(6) AUTHORITIES.—The Secretary may—

(A) provide technical assistance under the authority of this subtitle for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this subtitle.

SEC. 2066. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this subtitle, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the Federal, State, Tribal, and local, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

SEC. 2067. LOCAL COORDINATING ENTITY.

(a) DUTIES.—To further the purposes of the National Heritage Area, the Freedom's Way Heritage Association, Inc., as the local coordinating entity, shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with this subtitle;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this subtitle to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this subtitle to acquire any interest in real property.

SEC. 2068. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this subtitle affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this subtitle—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 2069. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this subtitle—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, Tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, Tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including but not necessarily limited to development and management of energy, water, or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 2070. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle not more than $1,000,000 for any fiscal year. Funds so appropriated shall remain available until expended.

(b) LIMITATION ON TOTAL AMOUNTS APPROPRIATED.—Not more than $15,000,000 may be appropriated to carry out this subtitle.

(c) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this subtitle shall be not more than 50 percent; the non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

SEC. 2071. USE OF FEDERAL FUNDS FROM OTHER SOURCES.

Nothing in this subtitle shall preclude the local coordinating entity from using Federal

funds available under Acts other than this subtitle for the purposes for which those funds were authorized.

SEC. 2072. SUNSET FOR GRANTS AND OTHER ASSISTANCE.

The authority of the Secretary to provide financial assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this subtitle.

Subtitle E—Abraham Lincoln National Heritage Area

SEC. 2081. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Abraham Lincoln National Heritage Area Act''.

(b) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 2081. Short title; table of contents.
Sec. 2082. Purposes.
Sec. 2083. Definitions.
Sec. 2084. Designation of Abraham Lincoln National Heritage Area.
Sec. 2085. Management plan.
Sec. 2086. Evaluation; report.
Sec. 2087. Local coordinating entity.
Sec. 2088. Relationship to other Federal agencies.
Sec. 2089. Private property and regulatory protections.
Sec. 2090. Authorization of appropriations.
Sec. 2091. Use of Federal funds from other sources.
Sec. 2092. Sunset for grants and other assistance.

SEC. 2082. PURPOSES.

(a) The purposes of this subtitle include—

(1) to recognize the significant natural and cultural legacies of the area, as demonstrated in the study entitled ''Feasibility Study of the Proposed Abraham Lincoln National Heritage Area'' prepared for the Looking for Lincoln Heritage Coalition in 2002 and revised in 2007;

(2) to promote heritage, cultural and recreational tourism and to develop educational and cultural programs for visitors and the general public;

(3) to recognize and interpret important events and geographic locations representing key periods in the growth of America, including Native American, Colonial American, European American, and African American heritage;

(4) to recognize and interpret the distinctive role the region played in shaping the man who would become the 16th President of the United States, and how Abraham Lincoln's life left its traces in the stories, folklore, buildings, streetscapes, and landscapes of the region;

(5) to provide a cooperative management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the region in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations; and

(6) to provide appropriate linkages between units of the National Park System and communities, governments, and organizations within the Heritage Area.

SEC. 2083. DEFINITIONS.

In this subtitle:

(1) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means the Abraham Lincoln National Heritage Area established in this subtitle.

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Looking for Lincoln Heritage Coalition, which is hereby designated by Congress—

(A) to develop, in partnership with others, the management plan for the National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for the National Heritage Area that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with this subtitle.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 2084. DESIGNATION OF ABRAHAM LINCOLN NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Abraham Lincoln National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The National Heritage Area shall consist of sites as designated by the management plan within a core area located in Central Illinois, consisting of Adams, Brown, Calhoun, Cass, Champaign, Christian, Clark, Coles, Cumberland, Dewitt, Douglas, Edgar, Fayette, Fulton, Greene, Hancock, Henderson, Jersey, Knox, LaSalle, Logan, Macon, Macoupin, Madison, Mason, McDonough, McLean, Menard, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, Sangamon, Schuyler, Scott, Shelby, Tazwell, Vermillion, Warren and Woodford counties.

(2) MAP.—The boundaries of the National Heritage Area shall be as generally depicted on the map titled ''Proposed Abraham Lincoln National Heritage Area'', and numbered 338/80,000, and dated July 2007. The map shall be on file and available to the public in the appropriate offices of the National Park Service and the local coordinating entity.

SEC. 2085. MANAGEMENT PLAN.

(a) REQUIREMENTS.—The management plan for the National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, Tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, Tribal, or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, Tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this subtitle; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including Federal, State, Tribal, and local governments, natural, and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and Federal, State, Tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State, Tribal, and local officials whose support is needed to ensure the effective implementation of the State, Tribal, and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, Tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this subtitle to implement an amendment to the management plan until the Secretary approves the amendment.

(6) AUTHORITIES.—The Secretary may—

(A) provide technical assistance under the authority of this subtitle for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this subtitle.

SEC. 2086. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this subtitle, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the Federal, State, Tribal, and local, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

SEC. 2087. LOCAL COORDINATING ENTITY.

(a) DUTIES.—To further the purposes of the National Heritage Area, the Looking for Lincoln Heritage Coalition, as the local coordinating entity, shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with this subtitle;

(2) submit an annual report to the secretary for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this subtitle to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this subtitle to acquire any interest in real property.

SEC. 2088. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this subtitle affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this subtitle—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 2089. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this subtitle—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, Tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, Tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including but not necessarily limited to development and management of energy, water, or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 2090. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle not more than $1,000,000 for any fiscal year. Funds so appropriated shall remain available until expended.

(b) LIMITATION ON TOTAL AMOUNTS APPROPRIATED.—Not more than $15,000,000 may be appropriated to carry out this subtitle.

(c) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this subtitle shall be not more than 50 percent; the non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

SEC. 2091. USE OF FEDERAL FUNDS FROM OTHER SOURCES.

Nothing in this subtitle shall preclude the local coordinating entity from using Federal funds available under other laws for the purposes for which those funds were authorized.

SEC. 2092. SUNSET FOR GRANTS AND OTHER ASSISTANCE.

The authority of the Secretary to provide financial assistance under this subtitle terminates on the date that is 15 years after the date of the enactment of this subtitle.

Subtitle F—Santa Cruz Valley National Heritage Area

SEC. 2111. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Santa Cruz Valley National Heritage Area Act''.

(b) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 2111. Short title; table of contents.
Sec. 2112. Purposes.
Sec. 2113. Definitions.
Sec. 2114. Designation of Santa Cruz Valley National Heritage Area.
Sec. 2115. Management plan.
Sec. 2116. Evaluation; report.
Sec. 2117. Local coordinating entity.
Sec. 2118. Relationship to other Federal agencies.
Sec. 2119. Private property and regulatory protections.
Sec. 2120. Authorization of appropriations.
Sec. 2121. Use of Federal funds from other sources.
Sec. 2122. Sunset for grants and other assistance.

SEC. 2112. PURPOSES.

The purposes of this subtitle include—

(1) to establish the Santa Cruz Valley National Heritage Area in the State of Arizona;

(2) to implement the recommendations of the ''Alternative Concepts for Commemorating Spanish Colonization'' study completed by the National Park Service in 1991, and the ''Feasibility Study for the Santa Cruz Valley National Heritage Area'' prepared by the Center for Desert Archaeology in July 2005;

(3) to provide a management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the region and to conserve the region's heritage while continuing to pursue compatible economic opportunities;

(4) to assist communities, organizations, and citizens in the State of Arizona in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations; and

(5) to provide appropriate linkages between units of the National Park System and communities, governments, and organizations within the National Heritage Area.

SEC. 2113. DEFINITIONS.

In this subtitle:

(1) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means the Santa Cruz Valley National Heritage Area established in this subtitle.

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the Santa Cruz Valley Heritage Alliance, Inc., which is hereby designated by Congress—

(A) to develop, in partnership with others, the management plan for the National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for the National Heritage Area that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with this subtitle.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 2114. DESIGNATION OF SANTA CRUZ VALLEY NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Santa Cruz Valley National Heritage Area.

(b) BOUNDARIES.—

(1) IN GENERAL.—The National Heritage Area shall consist of portions of the counties of Santa Cruz and Pima.

(2) MAP.—The boundaries of the National Heritage Area shall be as generally depicted on the map titled ''Santa Cruz Valley National Heritage Area'', and numbered _____, and dated _____. The map be on file and available to the public in the appropriate offices of the National Park Service and the local coordinating entity.

SEC. 2115. MANAGEMENT PLAN.

(a) REQUIREMENTS.—The management plan for the National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, Tribal, and local governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, Tribal, or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, Tribal, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this subtitle; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this subtitle until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including Federal, State, Tribal, and local governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and Federal, State, Tribal, and local governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State, Tribal, and local officials whose support is needed to ensure the effective implementation of the State, Tribal, and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, Tribal, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this subtitle to implement an amendment to the management plan until the Secretary approves the amendment.

(6) AUTHORITIES.—The Secretary may—

(A) provide technical assistance under the authority of this subtitle for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this subtitle.

SEC. 2116. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this subtitle, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the National Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of the authorizing legislation for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the National Heritage Area;

(2) analyze the Federal, State, Tribal, and local, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(c) REPORT.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall submit a report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

SEC. 2117. LOCAL COORDINATING ENTITY.

(a) DUTIES.—To further the purposes of the National Heritage Area, the Santa Cruz Valley Heritage Alliance, Inc., as the local coordinating entity, shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with this subtitle;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this subtitle, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this subtitle to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this subtitle to acquire any interest in real property.

SEC. 2118. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this subtitle affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this subtitle—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 2119. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this subtitle—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, Tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, Tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including but not necessarily limited to development and management of energy, water, or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 2120. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle not more than $1,000,000 for any fiscal year. Funds so appropriated shall remain available until expended.

(b) LIMITATION ON TOTAL AMOUNTS APPROPRIATED.—Not more than $15,000,000 may be appropriated to carry out this subtitle.

(c) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this subtitle shall be not more than 50 percent; the non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

SEC. 2121. USE OF FEDERAL FUNDS FROM OTHER SOURCES.

Nothing in this subtitle shall preclude the local coordinating entity from using Federal funds available under other laws for the purposes for which those funds were authorized.

SEC. 2122. SUNSET FOR GRANTS AND OTHER ASSISTANCE.

The authority of the Secretary to provide financial assistance under this subtitle terminates on the date that is 15 years after the date of enactment of this subtitle.

TITLE III—STUDY

SEC. 3001. STUDY AND REPORT OF PROPOSED NORTHERN NECK NATIONAL HERITAGE AREA.

(a) The Secretary of the Interior (hereafter referred to as ''the Secretary''), in consultation with appropriate State historic preservation officers, State historical societies, and other appropriate organizations, shall conduct a study of the suitability and feasibility of designating the area described in subsection (d) as the Northern Neck National Heritage Area in the Commonwealth of Virginia.

(b) CRITERIA.—In conducting the study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating the area described in subsection (d) as a National Heritage Area:

(1) The area—

(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally important to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities; and

(G) has resources and traditional uses that have national importance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation have documented their commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the study before making a determination for designation.

(d) BOUNDARIES OF THE STUDY AREA.—The study area referred to in subsection (a) shall be comprised of the following:

(1) The part of Virginia between the Potomac and the Rappahannock Rivers in eastern coastal Virginia.

(2) Westmoreland, Northumberland, Richmond, King George, and Lancaster Counties, Virginia.

(3) Other areas that have heritage aspects that are similar to those aspects that are in the areas described in paragraphs (1) and (2) and which are adjacent to or in the vicinity of those areas.

(e) REPORT.—The Secretary shall

(1) review, comment on, and determine if the study meets the criteria specified in subsection (b) for designation as a National Heritage Area;

(2) consult with the Governor of the Commonwealth of Virginia; and

(3) not later than 3 fiscal years after the date on which funds are first made available for this section, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions and recommendations of the study, including—

(A) any comments received from the Governor of the Commonwealth of Virginia; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(f) DISAPPROVAL.—If the Secretary determines that the proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the study submitted under subsection (e)(3) a description of the reasons for the determination.

TITLE IV—TECHNICAL CORRECTIONS AND ADDITIONS

SEC. 4001. NATIONAL COAL HERITAGE AREA TECHNICAL CORRECTIONS.

Title I of Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333 as amended by Public Law 106–176 and Public Law 109–338) is amended—

(1) by striking section 103(b) and inserting the following:

''(b) BOUNDARIES.—The National Coal Heritage Area shall be comprised of Lincoln County, West Virginia, and Paint Creek and Cabin Creek within Kanawah County, West Virginia, and the counties that are the subject of the study by the National Park Service, dated 1993, entitled 'A Coal Mining Heritage Study: Southern West Virginia' conducted pursuant to title VI of Public Law 100–699.'';

(2) by striking section 105 and inserting the following:

''SEC. 105. ELIGIBLE RESOURCES.

''(a) IN GENERAL.—The resources eligible for the assistance under section 104 shall include—

''(1) resources in Lincoln County, West Virginia, and Paint Creek and Cabin Creek in Kanawah County, West Virginia, as determined to be appropriate by the National Coal Heritage Area Authority; and

''(2) the resources set forth in appendix D of the study by the National Park Service, dated 1993, entitled 'A Coal Mining Heritage Study: Southern West Virginia' conducted pursuant to title VI of Public Law 100–699.

''(b) PRIORITY.—Priority consideration shall be given to those sites listed as 'Conservation Priorities' and 'Important Historic Resources' as depicted on the map entitled 'Study Area: Historic Resources' in such study.'';

(3) in section 106(a)—

(A) by striking ''Governor'' and all that follows through ''Parks,'' and inserting ''National Coal Heritage Area Authority''; and

(B) in paragraph (3), by striking ''State of West Virginia'' and all that follows through ''entities, or'' and inserting ''National Coal Heritage Area Authority or''; and

(4) in section 106(b), by inserting ''not'' before ''meet''.

SEC. 4002. RIVERS OF STEEL NATIONAL HERITAGE AREA ADDITION.

Section 403(b) of title IV of Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333) is amended by inserting ''Butler,'' after ''Beaver,''.

SEC. 4003. SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR ADDITION.

Section 604(b)(2) of title VI of Division II of the Omnibus Parks and Public Lands Management Act of 1996 is amended by adding at the end the following new subparagraphs:

''(O) Berkeley County.

''(P) Saluda County.

''(Q) The portion of Georgetown County that is not part of the Gullah/Geechee Cultural Heritage Corridor.''.

SEC. 4004. OHIO AND ERIE CANAL NATIONAL HERITAGE CORRIDOR TECHNICAL CORRECTIONS.

Title VIII of Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333) is amended—

(1) by striking ''Canal National Heritage Corridor'' each place it appears and inserting ''National Heritage Canalway'';

(2) by striking ''corridor'' each place it appears and inserting ''canalway'', except in references to the feasibility study and management plan;

(3) in the heading of section 808(a)(3), by striking ''CORRIDOR'' and inserting ''CANALWAY'';

(4) in the title heading, by striking ''**CANAL NATIONAL HERITAGE CORRIDOR**'' and inserting ''**NATIONAL HERITAGE CANALWAY**'';

(5) in section 803—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively;

(C) in paragraph (2) (as redesignated by this Act), by striking ''808'' and inserting ''806''; and

(D) in paragraph (6) (as redesignated by this Act), by striking ''807(a)'' and inserting ''805(a)'';

(6) in the heading of section 804, by striking ''**CANAL NATIONAL HERITAGE CORRIDOR**'' and inserting ''**NATIONAL HERITAGE CANALWAY**'';

(7) in the second sentence of section 804(b)(1), by striking ''808'' and inserting ''806'';

(8) by striking sections 805 and 806;

(9) by redesignating sections 807, 808, 809, 810, 811, and 812 as sections 805, 806, 807, 808, 809, and 810, respectively;

(10) in section 805(c)(2) (as redesignated by this Act), by striking ''808'' and inserting ''806'';

(11) in section 806 (as redesignated by this Act)—

(A) in subsection (a)(1), by striking ''Committee'' and inserting ''Secretary'';

(B) in the heading of subsection (a)(1), by striking ''COMMITTEE'' and inserting ''SECRETARY'';

(C) in subsection (a)(3), in the first sentence of subparagraph (B), by striking ''Committee'' and inserting ''management entity'';

(D) in subsection (e), by striking ''807(d)(1)'' and inserting ''805(d)(1)''; and

(E) in subsection (f), by striking ''807(d)(1)'' and inserting ''805(d)(1)'';

(12) in section 807 (as redesignated by this Act), in subsection (c) by striking ''Cayohoga Valley National Recreation Area'' and inserting ''Cayohoga Valley National Park'';

(13) in section 808 (as redesignated by this Act)—

(A) in subsection (b), by striking ''Committee or''; and

(B) in subsection (c), in the matter before paragraph (1), by striking ''Committee'' and inserting ''management entity''; and

(14) in section 809 (as redesignated by Act), by striking ''assistance'' and inserting ''financial assistance''.

SEC. 4005. NEW JERSEY COASTAL HERITAGE TRAIL ROUTE EXTENSION OF AUTHORIZATION.

Section 6 of Public Law 100–515 (16 U.S.C. 1244 note) is amended as follows:

(1) Strike paragraph (1) of subsection (b) and insert the following new paragraph:

''(1) IN GENERAL.—Amounts made available under subsection (a) shall be used only for—

''(A) technical assistance;

''(B) the design and fabrication of interpretive materials, devices, and signs; and

''(C) the preparation of the strategic plan.''.

(2) Paragraph (3) of subsection (b) is amended by inserting after subparagraph (B) a new subparagraph as follows:

''(C) Notwithstanding paragraph (3)(A), funds made available under subsection (a) for the preparation of the strategic plan shall not require a non-Federal match.''.

(3) Subsection (c) is amended by striking ''2007'' and inserting ''2011''.

SEC. 4006. ERIE CANALWAY NATIONAL HERITAGE CORRIDOR TECHNICAL CORRECTIONS.

The Erie Canalway National Heritage Corridor Act (title VIII of Appendix D of Public Law 106–554, 114 Stat. 2763A–295) is amended—

(1) in section 804(b)—

(A) by striking ''27'' and inserting ''at least 21 members, but not to exceed 27'';

(B) in paragraph (2), by striking ''Environment'' and inserting ''Environmental'';

(C) in paragraph (3), by striking ''19'';

(D) in paragraph (3)—

(i) by striking subparagraph (A) and redesignating subsequent subparagraphs accordingly;

(ii) in subparagraph (B) (as redesignated by clause (i)), by striking the second sentence; and

(iii) by adding after subparagraph (B) the following new subparagraph:

''(C) The remaining members shall be based on recommendations from each member of the United States House of Representatives whose district encompasses the Corridor, each of whom shall be a resident of or employed within the district from which they shall be recommended.'';

(2) in section 804(f), by striking ''Fourteen members of the Commission'' and inserting ''A majority of the seated (sworn) Commissioners'';

(3) in section 804(g), by striking ''14 of its members.'' and inserting ''a majority of the seated (sworn) Commissioners.'';

(4) in section 804(h)(4), by striking ''staff to carry out its duties;'' and inserting ''such staff as may be necessary to carry out its duties. Staff appointed by the Commission—

''(A) may be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

''(B) may be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to the classification and General Schedule pay rates;'';

(5) in section 804(j), by striking ''10 years after the date of enactment of this title'' and inserting ''15 years after the date of the enactment of this title'';

(6) in section 807(e), by striking ''duties with regard to the preparation and approval of the Canalway Plan.'' and inserting ''duties.'';

(7) in section 807, by adding at the end the following:

''(f) OPERATIONAL ASSISTANCE.—Subject to the availability of appropriations, the Superintendent of Saratoga National Historical Park may, on request, provide to public and private organizations in the Heritage Area, including the Commission, any operational assistance that is appropriate for the purpose of supporting the implementation of the management plan.''; and

(8) in section 810(a)(1), by inserting after the first sentence: ''Such sums shall remain available until expended.''.

TITLE V—SENSE OF CONGRESS REGARDING FUNDING

SEC. 5001. SENSE OF CONGRESS REGARDING FUNDING.

It is the sense of Congress that the Federal Government should not fund a national heritage area in perpetuity.

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. RAHALL) and the gentleman from Utah (Mr. BISHOP) each will control 30 minutes.

The Chair recognizes the gentleman from West Virginia.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill, H.R. 1483.

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

There was no objection.

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

Mr. Speaker, today, as America continues to grapple with the war and citizens throughout these United States deal with their daily struggles, I think it is important for us to harken back to our heritage and to celebrate our culture.

From the coalfields of southern West Virginia to the Land of Lincoln in Illinois; from the awesome beauty of Niagara Falls to the Muscle Shoals of Alabama; from the hallowed ground of the Virginia Piedmont, where battles were fought to unify this Nation, to the Santa Cruz Valley of New Mexico, this is the fabric of America. This is her heartbeat. Let us take time to listen to it and to celebrate it.

The legislation we are considering today was introduced by my friend and colleague, the gentleman from Ohio, Representative RALPH REGULA, who has been a strong and effective advocate for heritage areas, not only in the area he represents but also throughout the country, and I commend and salute him for that leadership.

Heritage areas help to preserve and interpret the geological history, the natural history and the human history of an area in a comprehensive fashion so that we and our children will better understand how our land has shaped our history and how our history has shaped our land.

National heritage areas are local community-driven preservation projects. Most of them arise out of the concerns of a core group of committed,

local folks who want to work together to preserve the places and resources that make their country or town or region unique. These citizens bring their proposals to their elected representatives in Congress because they need technical and planning assistance from their government and matching funds to use as seed money to help get their program off the ground.

Now, 23 years after the first national heritage area was designated, the program is at a crossroads. The Congress can either provide the program with the tools and support it needs to continue, maturing into a successful preservation model, or the Congress can turn our backs on heritage areas and leave local communities to fend for themselves as they try to save those things that make them special, that make America special.

We are moving this legislation today because we support national heritage areas and we want to see them succeed. Ever since Congress established the Illinois and Michigan Canal National Heritage Corridor in 1984, heritage tourism has been growing, and today it is a significant economic engine. These areas are worthwhile, not only as a way to help local economies, but also as a crucial tool for preserving our communities' and our people's links to the past.

By providing Federal recognition and financial support, we encourage preservation and interpretation of important periods in our Nation's history in a way that traditional units of the national park system cannot do.

□ 1030

Our initial investment ''primes the pump,'' if you will, and ensures that those areas get a solid start toward financial and operational independence. Given that each Federal dollar is matched by local funds, the Federal investment in the heritage area program is money well spent.

In addressing the Rules Committee Monday, my colleague Mr. REGULA noted that the $8 million made in his heritage area has yielded more than $270 million in non-Federal funding. For affected local communities, heritage areas are a program that works.

H.R. 1483, as amended, would establish six new heritage areas, increase the funding authorization for nonexisting areas, and make mostly technical changes in the establishing legislation for several of those areas. The bill also includes a study of the Northern Neck of Virginia, requested by our late colleague, Representative Jo Ann Davis.

Bringing this bill before the House today responds to the frequent and energetic requests of numerous Members on both sides of the aisle, Republicans and Democrats. In total, H.R. 1483 includes bills that are cosponsored by dozens of Members in both parties, including the entire House delegation in Illinois and New Jersey.

We also had very helpful input from the administration on this legislation, including detailed studies of the suitability of each new heritage area. Most of the changes being made to existing heritage areas were added at the request of the National Park Service.

This is a good bill, Mr. Speaker, and I want to commend the gentleman from Ohio (Mr. REGULA) for his commitment and leadership on heritage areas. We support passage of H.R. 1483 and urge its adoption by the House today.

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

Mr. BISHOP of Utah. Mr. Speaker, I am actually saddened to rise today on this particular bill. The 16 heritage areas that are either existing or proposed, many of them are very good, things that I would readily support.

Unfortunately, they have been packaged into what the government book my high school students read called ''A Christmas Tree'' in a very real way, in which bad proposals can be packaged around the few good proposals that are in here in hopes that people will tolerate the bad in hopes of getting a favorable recommendation from the good. My State and most State legislatures would never have tolerated this type of bill. This bill would be split up in our State so that each proposal would stand on its own merits and go up or down. Unfortunately, we do not use that procedure here. We ought to, but we do not.

Even in areas where something like an appropriation can be justified by lumping things together, in an authorization, it should not. That is why I rise in opposition to H.R. 1483.

When this bill was originally introduced, it was to reauthorize nine heritage areas, giving each an additional $10 million. Since the reauthorization on these nine original areas doesn't lapse until 2012, 5 years hence, it is interesting why we are taking the time now to revisit these particular areas. Even though some of these areas are simple technical corrections and changes, for most it appears that the reason we're doing it again is because they have gone through their money and they want more.

It is difficult when the process of a heritage area is supposed to become self-sufficient. It is an affront to heritage areas that are trying to become self-sufficient and break themselves from Federal dependence.

In 1994 when these same nine areas were being discussed, the Democrat hero of heritage areas, the advocate, the chairman of the then subcommittee, the late Bruce Vento stated: ''There is a limit to the length of time or the amount of money the Federal Government can be in a heritage area.'' Not totally grammatical, but you get the point of what he was trying to say.

He went on to say: ''In 10 years, we are out of there. Then they are on their own and we get the benefit of that conservation.''

Thirteen years later, that has not been the case. In fact, it has been said that for every dollar spent on these heritage areas, there is $10 to $20 from the private sector that comes back. It sounds like a great return on our investment if it could be independently verified.

In fact, during the hearings on this bill, the National Park Service testified that no heritage area has become self-sufficient. Unfortunately, it gets worse.

The Heritage Area Alliance, the association which represents all heritage areas, has told us in committee hearing that they should never become self-sufficient and they should always rely on continuous Federal appropriations for every heritage area. In fact, the Heritage Area Alliance has become a cottage industry where groups get grants from the Federal Government to go around telling other people how to get more grants from the Federal Government. And this performance we are now wishing to reward. While a public-private partnership can yield positive results, this program has taken on a life of its own.

In the Resources Committee, the bill was amended to cut back additional funds to existing heritage areas from $10 million to $5 million. I compliment Chairman GRIJALVA for his amendment and the chairman of the full committee for accepting it. It is like taking the balls off the bottom branches of the Christmas tree so the cat won't play with them.

And after taking that positive step, they reverse course and tacked on six new heritage areas. They have had hearings, but in fairness, only one has gone through the regular order that the chairman of the full committee established when we first met this year.

The Democrats also decided to make changes that were never part of the hearing. The new heritage areas will now receive $15 million each, up from the $10 million that they requested. It is great and lucky to receive a 50 percent bonus without asking for it. This gracious move by the Democrats means the total cost of this bill is now $135 million. Some of our committees thought that was a paltry sum. But $135 million is the total annual Federal income tax paid by 33,276 middle-class taxpayers. And this is how we are being responsible for their particular money.

We have some problems concerning some of the subtitles included in this new omnibus Christmas tree bill.

A journey through Hallowed Ground Heritage Area has been diligently sought by my colleague from Virginia (Mr. WOLF). I commend him for his dedication to this cause, and there is much of his proposed area that I like and I applaud. However, one of the problems still is there are issues that still persist. There is both support and opposition within this proposed area. Two of our colleagues have asked their particular congressional districts be removed from this designation. In committee, an amendment was offered to remove their districts, but it was rejected. And because this is a closed

rule, our colleagues do not have the opportunity of coming down here and on the floor of the House presenting their reasons why they wish to be withdrawn from this particular district.

We should not take Federal designations lightly. When we create a Federal designation, a Member who is opposed to that should be respected in his particular wishes. We were told this would disrupt the continuity of this heritage area. Well, this heritage area spans four States and it is supposed to still be locally operated. One must ask how a Virginia-based management entity will represent the local interests of four States. It is a legitimate question, but the bottom line is we still should respect our colleagues' privilege to represent their constituencies.

There has been criticism that private property protections in this bill are inadequate. The majority claims that the protections in this bill are sufficient because it states that participation is voluntary. Voluntary.

If two of our Members want to voluntarily opt out of this particular bill and are not allowed to do so, how will any property owner sitting in one of these new proposed districts get any kind of confidence that they are safe when it is not voluntary for any Member to remove their districts from these types of recommendations?

In the Resources Committee, I offered an amendment that would have simply provided for the right of private property owners to withdraw their land from a heritage area boundary. This is the exact same provision that has been on the 12 prior heritage areas. This is the same provision that Mr. WOLF added in his bill and was taken out by the committee even though he objected to the removal of that language from his own particular provision. Why are we treating these heritage areas different than the precedent we established for the other heritage areas? It is not an additional burden to the management. It would go a long way to assuring constituents that their rights would be protected. Unfortunately, the amendment was defeated again because the Democrats claim that their language was sufficient, an argument that has proved inaccurate on other occasions. In light of the infamous Kelo decision, we need to be extra cautious in the House when we deliberate on property rights.

The other side will claim that there is no risk to property rights. While I hope that is correct, we need to be very sure because boundaries have a consequence, or why should we have them. Proponents of this bill on the one hand say we need boundaries to protect historical properties, but on the other hand there is no regulatory authority. You can't have it both ways. It is an invitation to lawsuits. We have already seen cases brought forward based on these recommendations. I would point my colleagues to Pogliani v. United States Corps of Engineers. It has already happened that lawsuits have been filed to discontinue actions based on inclusion in a heritage area. The right to opt out of the boundary we proposed would have prevented this type of situation in the future.

In some respects this legislation is simply not ready for prime time. The Muscle Shoals proposal, which is another one I like a lot, I think it is good, but it has not yet completed a feasibility study. In other words, we don't have the assurance this heritage area could get off the ground before we wish to actually make the check for it.

We were promised in this particular bill that there would be a map included. If you see in the self-executing rule of the Rules Committee, they have put a number in place that used to be blank. A small little detail. But we have not been provided with a map of what the boundaries of this new heritage area actually are. So how can we tell people they can be voluntarily in or out of it when we don't even know yet what the boundary levels are? No wonder this has become a closed rule.

There is another area in this bill that was created, a Niagara Falls region, at the behest of the very powerful chairwoman of the Rules Committee, Ms. SLAUGHTER. Proponents claim it is needed to protect the falls. Protect the falls from what? What potential harm to the falls can be protected by the provisions of this particular bill? Remember, proponents say there are no restrictions or regulations imposed. Perhaps the totally unique commission that is established in this portion of the bill that has the Secretary of the Interior creating a new entity and staffing it with Federal employees and paying for it can finally answer that particular question. There is little more in this particular provision than using the National Park Service to conduct economic redevelopment projects. The Park Service does not have the expertise, or the funds, or the desire to be burdened with this subject.

At the center of the economic development plan for Niagara Falls is a new casino. Niagara Falls, honeymoons, gambling, there may be a nexus there somewhere for us. But while the State of New York has the right to pursue casinos and help their development, it is inappropriate to use national heritage areas to promote the casino. An amendment was offered when the Niagara Falls heritage bill originally went through the committee to put a firewall between the Federal funds in this bill and the casino. Committee Democrats rejected again this simple amendment. Whatever my colleagues feel on the issue of gaming is irrelevant. We should all agree, though, that this is not an appropriate use of Federal funds, especially when one area is given an advantage over the other.

Finally, concerns have been raised that these heritage areas and their boundaries may be used to impede the placement of energy transmission lines. While this may not be the full intent of the sponsors, we must proceed cautiously before we further damage our ability to keep up with the demand for energy. The grid is already heavily taxed, and it would be a tragedy to see blackouts as an unintended consequence of these designations.

Mr. Speaker, because we do not have an opportunity to improve this bill via amendment as a result of the closed rule, I have to urge my colleagues to oppose this legislation, unfortunately.

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

Mr. RAHALL. Mr. Speaker, I am honored at this point to yield 2 minutes to the gentlelady that the gentleman from Utah has already referenced, the chairlady of our powerful House Rules Committee, the gentlewoman from New York, Representative LOUISE SLAUGHTER, who has been a true fighter for her Niagara Falls National Heritage Area.

Ms. SLAUGHTER. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 1483, a bill amending the Omnibus Parks and Public Lands Management Act of 1996.

The bill reauthorizes already existing national heritage areas. Most important to me and my district, and I think to the country, the bill authorizes the creation of the Niagara Falls Heritage Area. This truly is a monumental day for the city of Niagara Falls, the surrounding communities and the millions of people who visit Niagara Falls each year.

Every time I drive across my congressional district, I am reminded how fortunate I am to represent such a beautiful part of the country. From the shores of Lake Ontario to our vineyards and apple orchards, Mother Nature has bestowed some of her finest treasures upon western New York. But none is as widely recognized at home and around the world as Niagara Falls.

Every year more than 15 million people travel to Niagara Falls to take in this awe-inspiring natural phenomenon. It is high time, Mr. Speaker, that the national treasures that are Niagara Falls and the Niagara River be granted the official status they have long deserved, that of a national heritage area.

Niagara Falls has always been a source of energy for our region. I don't need to remind you that it is the foremost source of hydroelectric power in North America as well as the birthplace of modern hydroelectric power.

This bill will help to solidify Niagara Falls' standing as something more, an engine for the revitalization and promotion of our region's natural, historic and scenic resources to residents and visitors alike. We are not ashamed of that.

We have, obviously, one of the areas of the country most devastated economically. As you know, the heritage area designation ties together private and public lands linked by geography and history. With the approval of this designation, the National Park Service

will assist our local and State organizations to develop and implement a plan to conserve and promote Niagara's natural attributes. Niagara Falls is one of the seven natural wonders of the world. We should all cherish it. The benefits are obvious for all to see.

□ 1045

Mr. BISHOP of Utah. Mr. Speaker, I am happy to yield 3 minutes to the sponsor of this particular bill, the gentleman from Ohio (Mr. REGULA), at the conclusion of which it would be very nice if the other side would have additional time for him because he's supporting your side.

Mr. RAHALL. Mr. Speaker, I yield the gentleman from Ohio 1 minute, also.

Mr. REGULA. Mr. Speaker, I thank the gentlemen for yielding time. I could spend all day on this. I've had 10 years of experience with this, with the heritage corridor, and it's been such a tremendous asset.

As a matter of fact, our chamber of commerce brought in an expert on economic development as to what we could do to keep young families in our community, and she said your number one asset is the corridor, the trail, because young families want to use it, and they do use it. And putting a human face on it, not only do I see young families all the time out on the towpath with their bicycles, with their family groups, but I see handicapped people who are wheeling their wheelchairs down the trail. So they, too, can benefit from the value of open space, a touch of environment and touch of nature.

It's a terrific asset in our community. Over 3 million people use it. In terms of costs, this is not an appropriation. This is an authorization. So let's not be confused here by what it costs. That will be a decision for the Appropriations Committee to make as to how much they want to commit. All this bill does is authorize this expenditure.

But what we found is that we get a huge outpouring of community support, foundations, village councils, private individuals who support this. For every dollar of Federal support, there's probably been $10 of local community involvement because they appreciate the recreational value. They appreciate the family values that come from using these facilities. They appreciate what it means to have this kind of thing in our community.

The Ohio and Erie Canal Towpath, which was originally there as part of the canal system, had brought prosperity to Ohio many years ago. In fact, we had had a system of canals that were the original expressways of yesteryear, and it started with George Washington and John Quincy Adams who pushed this for people.

Of course, we all know about the granddaddy of all canals, the C&O Canal. That was saved. It was originally designated to be a highway. The highway folks said, yeah, this is wonderful; we've got 160 miles here of corridor where the canal and the towpath run so we'll put a highway on it. And Justice William O. Douglas got the Washington press corps together and said, ''Come with me; we'll hike this piece of history.'' I suppose that was a little strenuous at the time, but they managed it, and they wrote such glowing editorials about it that it was preserved.

And to date, it's the C&O Canal National Parkway, and all you need to do is go out there on a Sunday afternoon or any weekday and you see people, thousands of people, from the City of Washington and the area using the C&O Canal for recreation, for an understanding of environment, for an understanding of history. It's a terrific asset.

And I think what we're saying here is that other communities want to preserve their heritage corridors to tell the story of how their communities were built originally, and this is the case in Ohio. But you get all the additional benefits of health, of walking and bicycling on a towpath, the benefits of being together as a family, the benefits of having a community asset.

It was mentioned about the cost, but I don't think we are ready to charge for Yellowstone or Gettysburg. We preserve these things, and it's part of the national responsibility to preserve these historic artifacts and places that are very much a part of our Nation's history.

So I would urge my colleagues to support this bill. Let the communities raise their money. Let them go to the Appropriations Committee and get whatever they can by way of support.

Mr. RAHALL. Mr. Speaker, continuing with the strong bipartisan support for this bill, I yield 2 minutes to my very good friend and dear colleague, the gentleman from Peoria, Illinois (Mr. LAHOOD), whose bipartisan nature and friendly relations we're going to truly miss in this Congress next year.

Mr. BISHOP of Utah. Mr. Speaker, I'd also like to yield the gentleman 1 minute of our time as well.

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

Mr. LAHOOD. Mr. Speaker, I thank both gentlemen for the time.

Mr. Speaker, I rise today in strong support of H.R. 1483, legislation to amend the Omnibus Parks and Public Lands Management Act to establish six new national heritage areas, including one running through my own congressional district known as the Abraham Lincoln National Heritage Area.

Mr. Speaker, I believe the establishment of heritage areas provides us with a unique opportunity to take a closer look at some of the most culturally significant areas of our country. As a former school teacher, I believe very strongly in the need to study the past in order to understand how we got to where we are today. Many of the issues that shaped President Lincoln's legacy are still relevant today, and it's worthwhile to continue to explore these issues. The establishment of the Abraham Lincoln National Heritage Area within this bill would accomplish these goals.

The purpose of creating this national heritage area in Illinois is to manage, study and promote Lincoln-related historical sites. Scattered throughout the central Illinois landscape are countless places where Lincoln traveled and lived. As children, we're taught the basic history of our country, including the basic facts of President Lincoln's life and legacy. What the history books usually don't teach are the experiences and events that shaped President Lincoln and made him the man he became. By designating this heritage area, we can tie these many Lincoln sites together in order to create a tapestry that will allow us to better understand the influences that shaped President Lincoln's life.

During my time in Congress, I've had the unique honor of representing all 11 counties that originally formed Abraham Lincoln's congressional district when he served one term in this very House. The year 2009 represents the 200th anniversary of President Lincoln's birth, and as the cochair of the Abraham Lincoln Bicentennial Commission, which is in charge of celebrating this event, what better way to honor one of the most prominent figures in American history who affected millions of lives than preserving and studying further those places where he lived and worked and that had a profound effect on his later life.

I urge my colleagues to support this important legislation, as it will lead to an opportunity for all in Illinois and all in our country to really have a better understanding of President Lincoln.

Mr. Speaker, I rise today in strong support of H.R. 1483, legislation to amend the Omnibus Parks and Public Lands Management Act to establish six new national heritage areas, including one running through my own district known as the Abraham Lincoln National Heritage Area.

I would first like to thank Chairman RAHALL and Ranking Member YOUNG for bringing this important matter to the Floor today. I would also like to thank Chairman GRIJALVA and Ranking Member BISHOP for holding hearings on the Abraham Lincoln National Heritage Area in their Subcommittee.

Mr. Speaker, I believe the establishment of heritage areas provides us with a unique opportunity to take a closer look at some of the most culturally significant areas of our country. As a former school teacher, I believe very strongly in the need to study the past in order to understand how we got to where we are today. Many of the issues that shaped President Lincoln's legacy are still relevant today, and it is worthwhile to continue to explore these issues. The establishment of the Abraham Lincoln National Heritage

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I urge my colleagues to support the preservation of Abraham Lincoln's legacy by voting in favor of H.R. 1483.

Mr. BISHOP of Utah. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. WOLF), once again speaking in favor, and I would ask maybe perhaps the other side would be a little bit more generous than the last time with their giving him some additional time.

Mr. RAHALL. I beg your pardon, it's your side of the aisle that should be yielding the time totally, but I'll be glad to yield 1 additional minute to the gentleman from Virginia, who has been very instrumental in crafting this legislation, and I appreciate his help.

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

Mr. WOLF. Mr. Speaker, I thank the gentlemen. I want to thank the chairman very much for his help and his support and your staff. I also want to honor Mr. REGULA, who has probably made such an impact on these issues over the many, many, many years.

I rise in strong support of this. The journey through hallowed grounds is hallowed growth. It begins with Monticello where Jefferson came out and wrote those words ''that all men are created equal, endowed by their Creator.'' Ronald Reagan said those words were a covenant, a covenant with not only Americans but with the entire world.

Then we move up to Antietam, Antietam where President Lincoln took that win, that battle, that victory there of 20,000 deaths and then had the Emancipation Proclamation. That is hallowed ground because when you walk in 1 day, 20,000 people died.

And then we move up to Gettysburg, Gettysburg where President Lincoln, probably the greatest or second greatest President after President Washington, gave that famous speech that made sure the Union came together.

This is hallowed ground. It is areas that we have helped define ourselves and who we are and why we are who we are.

Also in this area is Monroe's house, Oak Hill; Montpelier, President Madison; also Zachary Taylor's home; Eisenhower's farm; Teddy Roosevelt's cabin; Kennedy's house; Marshall's house, who helped devise the Marshall Plan. This will help commemorate, preserve and promote.

Let me read you what David McCullough said. He said, ''This is the ground of our Founding Fathers. These are the landscapes that speak volumes, small towns, churches, fields, mountains, creeks and rivers with names such as Bull Run and Rappahannock. They are the real thing, and what shame we will bring upon ourselves if we destroy them.''

For those who have objected, this is what the bill says: nothing in the subtitle alters any duly adopted land use regulation, approved land use plan or other regulatory authority of any Federal, State, tribal or local agency.

It goes on to say: nothing in this subtitle conveys any land use or other regulatory authority to any local or coordinating entity.

And the bottom line is, this bill cannot and does not affect the rights of any property owner.

In closing, let me say here's what Lincoln said. When Lincoln was in this area he said, ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have hallowed it far above our poor power to add or detract.''

This region, this area is sacred. It is hallow. I strongly urge my colleagues on both sides of the aisle, please pass this bill so we can preserve and protect and promote together, to educate our young people so when they hear the word ''Antietam'' they understood what took place; when they hear about ''Gettysburg'' they understood what took place; when they read the Declaration of Independence, they honor the men who said we give our lives, our fortunes and our sacred honor.

I urge an ''aye'' vote for this and again want to thank Mr. RAHALL very, very much and his staff and Mr. REGULA for his leadership, not only on this but on all of these park issues and all of these important preservation issues over the many, many years.

Mr. RAHALL. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. CRAMER).

Mr. CRAMER. Mr. Speaker, I thank the chairman.

Mr. Speaker, I rise today in strong support of today's legislation, amending the Omnibus Parks and Public Lands Management Act of 1996.

I would like to applaud Chairman RAHALL and his commitment to preserving our Nation's heritage. I would also like to thank Subcommittee Chairman GRIJALVA and members of the National Parks, Forest and Public Lands Subcommittee for their consideration of this important legislation.

Also, I would like to congratulate Mr. REGULA for his leadership over many years and offering today's basic underlying bill.

There's been some harsh criticism of this process. My area, the Muscle Shoals National Heritage Area, is one of the six new heritage areas included in this bill. This process has worked the way I would assume a process like this should work.

It has taken us years to bring our counties together, six counties in the northwest corner of Alabama, the birthplace of Helen Keller, the birthplace of W.C. Handy. There's so much rich history there, but we have not had the opportunity to partner with the private sector to develop a management plan, a feasibility study to come up with a management entity that could further the issues that we want to help preserve for our area. This whole process has allowed us to do that, and I think that's the way this process should work.

Look, we will have the public sector much more involved with us. We have a Helen Keller Festival every year at her birthplace, Ivy Green. Her home has deteriorated. It is an embarrassment to the country. It's an embarrassment to our area how much it's deteriorated. But now the public and private sector are coming together to preserve that homeplace and to make sure that the festival that honors her heritage there is one that's carried on in surroundings that it should be carried on.

As I said earlier about the process, a woman there, Nancy Gonce, teamed with the University of Alabama and brought together resources from all over that section of Alabama to make sure that we had the chance to have this national heritage area determined there.

I congratulate this process and urge the passage of this bill.

□ 1100

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to yield 7 minutes to the gentleman from Maryland (Mr. BARTLETT).

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Thank you very much for yielding.

Mr. Speaker, I rise in opposition to H.R. 1483 and urge my colleagues to vote ''no'' on this bill.

The Journey Through Hallowed Ground is not Mr. WOLF's bill. It is a

Democrat substitute bill that has been added to a larger bill, H.R. 1483, that is also a Democrat substitute bill. H.R. 1483 reflects a big government, big spending philosophy that tramples over taxpayers' interests and private property rights established and considered fundamental by revered American leaders such as Thomas Jefferson and Abraham Lincoln. What's more, it is being brought up under a closed rule. An amendment I offered to ensure majority voting control by congressional district residents over decisions by management entities affecting sites in their district located within heritage areas was rejected.

I was an enthusiastic supporter of the establishment of the Journey Through Hallowed Ground when it was perceived as a collective marketing effort. I thought, gee, what a great idea to include in one marketing effort all these grand historic sites in these four States, many of which are in the district I have the honor of representing. The Battle of Monocacy, the Battle of South Mountain, the Battle of Antietam, the C&O Canal that was mentioned by my friend, Mr. REGULA, are all in my district. What a grand name for it, the Journey Through Hallowed Ground. In fact, this was such a great idea, it was such a fantastic name, that I was a little embarrassed when I thought to myself, gee, Roscoe, why didn't you think of that, such a great idea. Then, regrettably, it has metamorphosed into this big government, big spending bill. If you read the fine print in this bill, you will see that there is a Virginia-based, Virginia-controlled designated management entity that has an exclusive vision that I don't think is consistent with most of the voters in my district.

I have consistently stated and testified on both September 28, 2006, and March 8, 2007, that any Federal legislation to create the Journey Through Hallowed Ground Heritage Area should retain local control of its management by Marylanders concerning sites in Maryland. I also believe that if the value of land is reduced as a result of actions by the management entity, or local zoning ordinances, for instance, then affected property owners should be compensated at fair market value. I don't only think this, this is a requirement of the fifth amendment of the Constitution. We have taken value from their land, and we need to compensate them for that. We almost never, ever do that. If the fifth amendment of the Constitution were, in fact, honored, most of the governments would be bankrupt because they couldn't pay for the value they had taken from their taxpayers' lands. It is unwarranted to spend $15 million of taxpayers' money to protect and promote the Journey Through Hallowed Ground. This is such a great idea. There is plenty of money out there in the private sector. We don't need Federal money to do this. Supporters of H.R. 1483 have consistently refused to incorporate protections of taxpayers and private property owners. That is why I introduced an alternate bill, H.R. 1270, and approved an amendment to remove the Sixth District of Maryland if we couldn't have majority voting rights. That was defeated in committee on a party-line vote. Actions by management entities and the $135 million in taxpayers' money that will be matched and spent by management entities speak louder than the weak and toothless language in section 2009.

Let me just quote a couple of things from some outside groups that have looked at this. First from Americans for Tax Reform/Property Rights Alliance Vote Alert: ''We urge all Members to side with Americans and protect the right of land use by voting 'no' on H.R. 1483.''

From the National Taxpayers Union: ''NTU urges all Members to vote 'no' on H.R. 1483. NTU testified against H.R. 1483 in committee, and we're dismayed to see that the bill has grown in both cost and potential harm since introduction. Rollcall votes on H.R. 1483 will be significantly weighted in our annual Rating of Congress.''

From the Heritage Foundation, in a report that they issued called ''National Heritage Areas: Costly Economic Development Schemes that Threaten Property Rights, Backgrounder 2080:''

''In fact, non-National Park Service funds amount to nearly 70 percent of the costs associated with the national heritage areas. If this pattern continues, H.R. 1483 would lead to an additional $270 million in NHA spending by Federal, State, local and not-for-profit entities.''

''One of the most controversial aspects of H.R. 1483 is the establishment of the Journey Through Hallowed Ground,'' which is in my district. ''The effort is sponsored and promoted by mainly two factions, Virginia-based environmental groups with a long history of opposition to most residential and commercial development in the region and wealthy estate owners who would benefit from the cachet and exclusivity that the designation might bring. The opposition includes local property owners and a large majority in Congress.

''Other NHAs have used their federally acquired authority to impose restrictive zoning requirements on the region's property owners to limit development and/or to force it into directions agreeable to those who guide the management of the NHA.''

Let me review. Members may be concerned that H.R. 1483 would, one, increase Federal funding by 50 percent from $10 million to $15 million per national heritage area, an amount neither requested nor reviewed in hearings, with total additional Federal spending of $135 million.

Two, it would expand the boundaries of three existing national heritage areas and, in addition, it would create six new national heritage areas, including the Journey Through Hallowed Ground, at a total initial authorization of $90 million.

It would reauthorize, increase and extend Federal funding for nine existing national heritage areas through 2012 at an additional cost of $45 million.

All of our Nation's founders knew of the intimate connection between personal liberty, taxpayers' interests and property rights. H.R. 1483 tramples over, rather than honors, these hallowed principles.

Mr. RAHALL. Mr. Speaker, may I ask how much time is left on both sides.

The SPEAKER pro tempore. The gentleman from West Virginia has 17½ minutes, and the gentleman from Utah has 8 minutes.

Mr. RAHALL. Mr. Speaker, I am honored to yield 2 minutes to the gentleman from Massachusetts (Mr. OLVER) who has been very instrumental in crafting this legislation.

Mr. OLVER. I thank the gentleman from West Virginia for yielding time and for his dedicated leadership of the Resources Committee.

Mr. Speaker, I rise in strong support of H.R. 1483, but I will address my specific comments to subtitle D of title II which authorizes the Freedom's Way National Heritage Area.

New England provided four of our original 13 States and has been long associated with our Nation's formative years, our major social and intellectual movements and, of course, great natural beauty. The area that comprises the proposed Freedom's Way National Heritage Area, which is included in this bill, has provided the backdrop for many other events and movements that shaped America.

Freedom's Way includes 37 communities in Massachusetts and eight in New Hampshire that are historically rich. Freedom's Way chronicles and celebrates the Revolutionary War stories of Lexington and Concord. Additionally, the free religious expression and social movements of the Shakers and Transcendentalists had their roots in the region. The area also hosted the social justice and the social criticism development found in the writings of Emerson, Hawthorne, Alcott, Fuller and Thoreau. And finally, the movements for the abolition of slavery, women's rights and environmental conservation all have roots within the boundary of Freedom's Way.

The proposed initiative embodies the National Park Service's criteria for national heritage areas. It will conserve historic, cultural, scenic and natural resources for the benefit of current and future generations. The idea has received widespread support from local residents and has the support from every Member of the House whose district includes a portion of the proposed area.

With this designation, the communities included will benefit from better resources to create a cohesive learning experience, using the natural setting and historical and cultural artifacts to tell the story of American democracy.

I urge all my colleagues to support H.R. 1483.

Mr. BISHOP of Utah. Mr. Speaker, I submit for the RECORD a letter signed by 110 organizations interested in property rights who are opposed to this particular bill, including such groups as the Taxpayers Union, a supervisor in the affected area, Property Rights Foundation of America, Family Research Council and a mayor in my district.

COALITION LETTER DETAILING RISKS OF NATIONAL HERITAGE AREA DESIGNATION

The following letter—signed by a diverse group of more than 110 organizations, elected officials and citizens—was delivered on September 4 to Senate Majority Leader Harry Reid, Senate Minority Leader Mitch McConnell, House Speaker Nancy Pelosi, House Minority Leader John Boehner, Senate Energy and Natural Resources Committee Chairman Jeff Bingaman, Senate Energy and Natural Resources Committee Ranking Member Pete V. Domenici, House Committee on Natural Resources Committee Chairman Nick Rahall, House Committee on Natural Resources Ranking Member Don Young as well as all the members of the House and Senate Natural Resources Committees.

DEAR [ELECTED OFFICIAL]: The U.S. Supreme Court ruling in Kelo v. City of New London ignited a national outcry against government abuse of property rights. The ''bridge to nowhere'' and other wasteful programs triggered angry protests against the practice of earmarking National heritage areas are the Kelo decision and earmarks rolled into one.

National heritage areas are preservation zones where land use and property rights can be restricted. They give the National Park Service and preservation interest groups (many with histories of hostility toward property rights) substantial influence by giving them the authority to create land use ''management plans'' and then the authority to disburse federal money to local governments to promote their plans.

As a March 2004 General Accountability Office report on heritage areas states: ''[National heritage areas] encourage local governments to implement land use policies that are consistent with the heritage areas' plans, which may allow the heritage areas to indirectly influence zoning and land use planning in ways that could restrict owners' use of their property.''

The proposed ''Journey Through Hallowed Ground National Heritage Area Act'' provides a good case study on how heritage areas can be self-perpetuating federal pork and influence projects. The chief lobbying organization for this heritage area, the Journey Through Hallowed Ground Partnership, received a one million-dollar earmark in the 2005 federal transportation bill at the behest of Members of Congress sponsoring legislation to establish this heritage area—an earmark that was granted before the organization was even incorporated. A million-dollar earmark thus was issued to help create a steady stream of future pork, at the expense of the rights of local landowners.

We believe zoning and land use policies are best left to local officials, who are directly accountable to the citizens they represent. National heritage areas corrupt the principle of representative government and this inherently local function by giving unelected, unaccountable special interests the authority to develop land management plans and federal money with which to finance their efforts.

Once established, National heritage areas become permanent units of the National Park Service, and as such, permanent drains on an agency that currently suffers a multi-billion-dollar maintenance crisis. According to the GAG, ''sunset provisions have not been effective in limiting federal funding [for National Heritage Areas]: since 1984, five areas that reached their sunset dates received funding reauthorization from the Congress.''

Supporters of new heritage areas have the public will precisely backward: Americans want stronger property rights protections and less pork-barrel spending—not more earmarks to programs that harm property rights.

Please do not support the creation of additional national heritage areas or federal funding for heritage area management entities, support groups, or groups that lobby for or advocate the creation of new heritage areas.

Sincerely,

David Ridenour, Vice President, National Center for Public Policy Research; J. William Lauderback, Executive Vice President, The American Conservative Union; John Berthoud, President, National Taxpayers Union; Paul Poister, Executive Director, Partnership for the West; Larry Pratt, Executive Director, Gun Owners of America; William Niemeyer, Mayor, City of West Alton, MO; Ryan Ellis, Executive Director, American Shareholders Association; Peter Flaherty, President, National Legal and Policy Center; Steve Snow, Supervisor, Loudoun County, VA; Carol W. LaGrasse, President, Property Rights Foundation of America; Paul M. Weyrich, National Chairman, Coalitions for America; Tom McClusky, Vice President of Government Affairs, Family Research Council; Jay Lehr, Science Director, The Heartland Institute; Jim Martin, President, 60 Plus Association; Bill Moshofsky, Vice President, Oregonians In Action; Niger Innis, National Spokesman, Congress of Racial Equality; Gregory Cohen, President and CEO, American Highway Users Alliance.

Richard Falknor, Executive Vice President, Maryland Taxpayers Association, Inc.; Linda C. Runbeck, President, American Property Coalition; Thomas K. Remington, Managing Editor, U.S. Hunting Today; Fred L. Smith, President, Competitive Enterprise Institute; Matt Kibbe, President, Freedom Works; Mychal Massie, Advisory Council Chairman, Project 21; Steve Baldwin, Executive Director, Council for National Policy Action, Inc.; Caren Cowen, Executive Director, New Mexico Cattle Growers' Association; Randy T. Simmons, Mayor, Providence City, UT, Professor, Utah State University; Donald E. Wildmon, Founder and Chairman, American Family Association; Leroy Watson, Legislative Director, National Grange; Kelsey Zahourek, Executive Director, Property Rights Alliance; Roy Cordato, Ph.D., VP for Research and Resident Scholar, John Locke Foundation; Tom DeWeese, President, American Policy Center; Rachel Thomas, Property Rights Advocate, Huachuca City, AZ; Rose Ellen Ray, Treasurer, Citizens for Property Rights Loudoun County, VA.

Paul Driessen, Senior Policy Advisor, Center for the Defense of Free Enterprise; Maxine Korman, Korman Ranch, Hinsdale, Montana; Gerald Hobbs, President, Public Lands for the People; John Grigsby, Vice President, Taxpayers for Accountable Government; Don Parmeter, Executive Director, American Property Coalition; Leo Schwartz, Chairman, Virginia Land Rights Coalition; Pat King, Anvil Ranch, Tucson, AZ; Tom Borelli, Ph.D., Portfolio Manager, Free Enterprise Action Fund; John and Connie Morris, Members, Tongue River Watershed Alliance, and MT and WY Farm Bureaus; Brad VanDyke, Representative, Rural Utahns for Local Solutions; Jerry Hamilton, Environmental Coordinator, Formation Capital Corporation; F. Patricia Callahan, President and General Counsel, American Assoc. of Small Property Owners; Lew Uhler, President, National Tax Limitation Committee; Jon Caldara, President, Independence Institute; Dan Byfield, President, American Land Foundation; John Taylor, President, Tertium Quids.

Susan Carlson, Chairman and CEO, American Civil Rights Union; Gary Palmer, President, Alabama Policy Institute; Lenore Hardy Barrett, State Representative, Idaho; Jonathan DuHamel, President, People for the West-Tucson; Jack and Patricia Shockey, President and Director, Citizens for Property Rights; Fred Grau, Executive Director, Take Back Pennsylvania; Mike Dail, Chairman, American Land Foundation; Chuck Cushman, President, American Land Rights Association; James Stergios, Executive Director, Pioneer Institute; Deneen Borelli, Fellow, Project 21; Marilyn Hayman, Chairman, Citizens for Responsible Zoning and Landowner Rights; C.J. Hadley, Publisher/Editor, Range Magazine; Elizabeth Arnold, Grassroots Consultant, Environmental Community Outreach Services, Juneau, AK; Greg Blankenship, President, Illinois Policy Institute; Bill Wilson, President, Americans for Limited Government; Jane Hogan, Secretary, Ontario Hardwood Company, Inc.

Katherine Lehman, President, People for the USA Grange #835; Howard Hutchinson, Executive Director, Coalition of Arizona/New Mexico Counties; C. Preston Noell III, President, Tradition, Family, Property, Inc.; Dr. William Greene, President, RightMarch.com; Leo T. Bergeron, President, Upper Mid-Klamath Watershed Council; Eugene Delgaudio, President, Public Advocate of the U.S., Inc.; Leri M. Thomas, Ph.D., Charter Member, Virginians for Property Rights; John McClaughry, President, Ethan Allen Institute; Richard O. Rowland, President, Grassroot Institute of Hawaii; James W. Jarrell, Sr., Board Member, Virginia Bear Hunters Association; Erich Veyhl, Publisher, Maine Property Rights News; Dane vonBreichenruchardt, President, U.S. Bill of Rights Foundation; Mark Williamson, Founder and President, Federal Intercessors, New Mexico Federal Lands Council, New Mexico Wool Growers, Inc.; Beth Machens, Board of Aldermen, City of West Alton, MO .

Janet M. Neustadt, Board of Aldermen, City of West Alton, MO; William J. Richter, Board of Aldermen, City of West Alton, MO; Deborah Anderson, Treasurer, City of West Alton, MO; Susan Silk, City Clerk, City of West Alton, MO; Charlotte Meyers, Assistant Administrator, City of West Alton, MO; Ora B. Anderson, Jr., Planning and Zoning Commission, City of West Alton, MO; Ray Ponciroli, Board of Aldermen, City of Portage, MO; Army Ridenour, Director, Americans for the Preservation of Liberty; Bruce Colbert,

Executive Director, Property Owners Association of Riverside County, CA; Randall and Ruth Lillard, Farmers and Landowners, Madison County, VA; Joyce Morrison, Farmer and Agricultural Environmentalist, Fieldon, IL; Donald Castellucci, Jr., Councilman, Town of Owego, Tioga County, NY; Milari Madison, Property Owner, Loudoun County, VA; Robert L. Sansom, Farmer and Landowner, Madison County, VA; Mary E. Darling, Sonoita, AZ.

James Vadnais, Port Angeles, WA; Floyd Rathbun, Fallon, Nevada; Steven and Peggy Breen, Boise, Idaho; Peggy Bogart, Access Advocate; Dan Goulet, Portland, OR; Susan Freis Falknor, Bluemont, VA; Harold L. Stephens, Member, Citizens to Protect the Confluence; Jerry Fennell, Chairman, Jicarilla Mining District; Bonner R. Cohen, Ph.D., Senior Fellow, National Center for Public Policy Research; Judy Keeler, Secretary, Bootheel Heritage Assoc. (Animas, NM); Alexandra H. Mulkern, Mechanicsville, MD; Lee Riddle, Brookings, OR; Stephen L. Ralston, Columbia, PA; Mark Pollot, Boise, ID; Billy Jean Redemeyer-Roney; D.J. McCarthy, Civil Engineer; Clifton McDonald, Needles, CA; Kirk and Jeri Hansen, Clayton, ID; Suzanne Volpe, Sterling, VA.

With that, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, with the development of such strong bipartisan legislation of this nature, it obviously takes a lot of work by Members' staffs on both sides of the aisle and by members of the originating committee, our Committee on Natural Resources, as well.

I yield 3 minutes to the distinguished gentleman from Arizona, Mr. RAUL GRIJALVA, one of those gentlemen that has taken the reins of leadership this year as chairman of our Parks Subcommittee and done a tremendous job.

Mr. GRIJALVA. Let me thank the chairman for the time.

Mr. Speaker, I am pleased to be here to support H.R. 1483 as chairman of the subcommittee, but also supporting the larger heritage area bill. One section in particular that applies to my community is the designation of a new heritage area in the Santa Cruz Valley of Arizona.

The Santa Cruz Valley has national significance and deserves the recognition that this designation would bring and highlight what is a shared border with Mexico. The Santa Cruz Valley encompasses many diverse cultures and histories. These include native peoples whose heritage dates back 13,000 years, and the descendants of Spanish, Mexican and American territorial settlers who shaped the region, its land, its customs and its traditions from the 1690s to the present date.

For me it's an important designation. I grew up on a ranch, Canoa Ranch, that is located within the Santa Cruz Valley. It's a historic ranch, been designated as such and presently is being renovated to bring and highlight what that ranch life was in the 1800s and 1900s.

The towns and cities of the Santa Cruz Valley support this. The amount of support that this proposal has is truly outstanding. I want to say something not only about the Santa Cruz Valley and its importance, but I think it transcends the discussion that we are having about heritage areas. Heritage areas, through the designation, is also a recognition of a mosaic, a mosaic of history, people, traditions, the environment, a mosaic that shapes this country. Each one is as different and diverse as our Nation. To get to a designation point takes a great deal of work and cooperation among communities and peoples, and that's what we are acknowledging with heritage areas, the work that went into it, the diversity of this great Nation of ours, and the mosaic that makes this Nation of ours as special and privileged as it is in the world.

I would also like to say that we are going to hear things about taking property rights, the cost. A GAO study was commissioned, and many of the organizations which have been submitted for the record as private property rights advocates were solicited to provide specific examples where heritage areas did indeed interfere with, take or prohibit the use of someone's private property. Not one instance came up in that study. I just want to reaffirm that these projects, these heritage areas are cooperative, bipartisan and truly deserving of the designations. I want to thank the chairman for the entire bill.

Mr. BISHOP of Utah. Mr. Speaker, the GAO report that was just referenced, it is one of those unique things, not wishing to actually criticize the Federal Government for what they do, but in the entire report, not one property owner was interviewed, not a single property attorney was interviewed, nor a Realtor, nor appraiser, nor a local zoning official. Simply put, the report neglected to ask those who actually know what the impact of a heritage area has on the property rights and values of their land.

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

Mr. RAHALL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California, Mr. SAM FARR.

Mr. FARR. Thank you, Mr. Chairman, for yielding.

Mr. Speaker, it's a pleasure to rise as a former member of this committee and to congratulate the chairman and the ranking member and the fellow committee members for bringing this bill to the floor. Much of the committee work in the past, I think, was focused a lot on the Federal lands in the West. This bill, interestingly enough, focuses on land mostly east of the Mississippi.

Congressional authorization is essential to sound management of these important places. But this just isn't about land designation; it's about the beauty and heritage of American spirit, our cultural spirit.

As cochair of the House Tourism Caucus, we have learned that we need to increase travel in this country, particularly outreaching to foreign visitors, because the image of the United States around the world is not that good.

However, visitors coming to this country, seeing this beautiful land, and meeting the people in this country, and looking at our history and our beauty of what I think is the best culture in the world, the American spirit, can only be done by showing them places that we have preserved, so that it's just not all sort of sprawled-out urbanism.

These special places need to be protected, because they need the guidance of a good government structure like the Federal Government along and in partnership with State and local government. I want to associate myself with the words of the other speakers that have long been involved in land-use planning and land use, and there has never been an eminent domain or taking of this land.

□ 1115

In fact, the prices, if they do buy them, are agreed upon by the landowner, and they're agreed upon without having to have any disputes. So I think it's worked very, very well.

America is a beautiful place, but it's beauty is not just in its scenery. It's also in its people and the people's heritage.

I urge my colleagues to authorize the celebration of America's great assets, this bill, the heritage of our people.

Mr. BISHOP of Utah. Mr. Speaker, I would like to yield an additional 2 minutes to the sponsor of this particular bill, the gentleman from Ohio (Mr. REGULA).

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

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding, and I want to commend Chairman RAHALL and the staff for their effective working on this.

This is a people's bill because what it does is allows the local communities to develop their heritage legacy. As Mr. WOLF pointed out, the historic corridors, as was pointed out also by Mr. LAHOOD, would bring these things to life. It would bring these battlefields to life to understand what happened there and how important that is to our Nation's heritage as a people, how important it is in the case of Lincoln, as to what his life has meant to all of us.

And it's no encroachment on local control. In fact, it's the epitome of local control, because the decision to make heritage corridors work is up to the people. In our own experience, as I say, we've raised over 250 million private dollars to match something like 8 or 9 million of Federal dollars.

But putting the Federal imprimatur on this gives it a certain status that allows foundations, that allows private individuals to contribute to making these corridors a success.

And as I said earlier, it enhances family values. It enhances property values. It enhances understanding.

I'll never forget going out, to our corridor, where we had a group of students from the inner city as part of a summer work program, cleaning up the right-of-way where we now have the towpath. And these two young students who for the first time in their life, saw a turtle. It was a whole new experience for them. I said to them, Keep your finger out of that turtle's mouth.

But it illustrates how historic corridors are so much a part of everyone's heritage, to understand environmental values, to understand historical values, to understand what has made this Nation great.

And I would urge all of my colleagues to support this legislation. This is a gift to the people of all local communities that have a corridor.

Mr. RAHALL. Mr. Speaker, I reserve the balance of my time, as I understand I have the right to close.

Mr. BISHOP of Utah. Do I understand you have no more speakers?

Mr. RAHALL. That's correct. And I reserve the right to close.

Mr. BISHOP of Utah. Then I'm prepared to close as well, if that's okay.

Mr. Speaker, as I said at the very beginning of this particular debate, on this particular bill there are elements of this bill that I fully support and I think are wise, good moves forward. There are some things in there that simply are not.

We have talked a lot and heard a lot about some of the better parts of this bill. However, we're talking about heritage areas. And I'm sorry, in all due respect, a casino as a heritage area for Niagara Falls? Those are some of the stretches that we have in this particular element.

When we had our committee hearing, there were several people that were talking about the need for these new heritage areas. One particular individual who was testifying told of the importance of having this Federal designation, so I tried to zero in on that and ask what it is specifically about this designation that cannot be done by the local levels, by State government, the local entity. Give me one thing that cannot be done that only the Federal Government can do. There was not one element that was given until somebody behind him simply answered that the correct answer is there are 15 million reasons why you have this designation, and each one has a portrait of George Washington on it.

We have all been lobbied on this bill, even though lobbying is not allowed in this bill. We have tried to put amendments and provisions of these parts that would clarify, clarify that lobbying could not be used by this Federal money going to these entities, and yet the chairman's argument against this, well, it would be making it too difficult for heritage areas to then ask for money. Had we not had a closed rule, some commonsense changes as, for example, where the map actually is, should there be lobbying allowed, should there be real protection for private property owners, should we actually define what these are, they would have been allowed to be discussed and at least voted on this particular bill. Unfortunately, the Rules Committee cut out that opportunity, and now we're here with a closed bill.

Many of my colleagues who do not serve on the Resources Committee may not be aware that the Department does not support these bills. On each and every heritage area that we've had recommended to the committee, the Department has asked the committee to defer action until a criteria for heritage areas is established. And I can see why some deferment makes sense. Perhaps we wouldn't be here debating heritage areas that have not yet finished their feasibility studies or had their maps prepared had we listened to that advice.

A lot of good things, but this is still a classic Christmas tree with a lot of bad things that are hidden by the good ones.

I urge my colleagues not to support this omnibus lands bill, this Christmas tree of lands bill, simply because there are too many bad things that need to be fixed before it moves on.

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

Mr. RAHALL. Mr. Speaker, in summation, these are not good times for the ratings of the United States Congress in the public opinion polls. We all know that in this body; yet I think if the American people would see Congress in action this very moment that those poll ratings might very well go up.

We've seen examples on this legislation of Members on both sides of the aisle in a bipartisan, nonpartisan manner, working to preserve what is the best of America. I look at the gentleman from Ohio (Mr. REGULA), I look at the gentleman from Virginia (Mr. WOLF), I look at the gentleman from Illinois (Mr. LAHOOD) on the other side of the aisle, and I look at the many Members on this side of the aisle from different parts of the country, south, north, west, that have joined together in bringing this legislation to the floor today.

Yes, we have respectful disagreements, and I respect the gentleman from Utah's position, but we also have worked very hard in what I think the American people want to see, and that is a nonpartisan effort to solve this country's problems.

Now, if you looked up the word ''red herring'' in Webster's Dictionary, the definition would be the property rights arguments that the critics of this bill are using against this legislation.

Heritage areas have no regulatory authority. Over 60 million Americans live in heritage areas. The entire State of Tennessee, for example, the entire State of Tennessee is a heritage area. Almost my entire congressional district is a heritage area. There have been no impacts on private property rights, mining, road building, economic development. I believe we've done quite well in each of those areas in my congressional district, most of which is a heritage area.

And the gentleman from Arizona, the subcommittee chairman, Mr. GRIJALVA, brought out very well where we've seen no instances where there have been private property issues, no instances where such problems have occurred.

Now, those that have expressed concern about property provisions in this bill, let me be clear. In the 20 years plus of this program's existence, opponents have not been able to identify one single instance in which someone has been deprived of the use of their property as a result of such designations as we're considering in this bill.

And nevertheless, as the gentleman from Virginia (Mr. WOLF) has quoted, we do, in this legislation, provide extensive property, private property provisions. These private property protections are the same language approved by the Senate, the same language proposed by the administration in heritage area systems bills under consideration in this Congress, and the same language included in heritage areas bills passed by the previous Congress under the other party's control.

The history of this program, as we have seen in repeated debate on the floor and in committee, not to mention the GAO report which has been referenced, has proven that there are simply no legitimate private property issues here. It's time to move on, stop flogging this dead horse and bringing up this red herring.

Now, the gentleman from Utah mentioned our late colleague, the gentleman that was elected to Congress with me, the late Representative Bruce Vento, the former chairman of the Parks Subcommittee. And the gentleman from Utah mentioned that he did not intend for the Federal heritage areas to last longer than 10 years. I'm reasonably sure, however, that our late colleague did not foresee these areas having to contend with close to $90 a barrel oil and the other increase in costs, I might add, that the numerous heritage areas created under Republican Congresses that were all authorized for 15 years. We have provided an increase in authorized funding for heritage areas to ensure that heritage areas have enough funds to get on their feet.

So the issue here is not private property rights. The issue is not gaming in these areas. The issue is not earmarks. I would say to my colleagues, imagine, for example, if Yellowstone National Park did not exist and Members of Congress introduced legislation to provide for such a crown jewel of our national park system. Would that be called an earmark?

The issue is not lobbying by local people, our local legislators. They have a right to try to secure that additional State and local funding necessary to match Federal funding. We provide

protections. Federal law prohibits any other lobbying by local groups.

So the issue, as I conclude, Mr. Speaker, is not about earmarking, not about lobbying, not about private property rights; it's about the American people and protection of what is theirs and providing our American people a place in which they can take their families, can spend quality time of life in these times when it's so hard to spend quantity time together, that they spend quality time together. And that's what we're talking about in this legislation. That's what we're talking about in our heritage areas, in America's heritage.

So I conclude by urging my colleagues on both sides of the aisle to continue the nonpartisan, bipartisan spirit that has brought this bill to the floor and pass this legislation by a tremendous margin.

Mr. BRALEY. Mr. Speaker, I rise today in support of H.R. 1483, the Celebrating America's Heritage Act. As an original co-sponsor of this important legislation, I fully support the reauthorization of the National Heritage Areas.

I am especially pleased that this bill authorizes additional funding for Silos and Smokestacks National Heritage Area in Iowa, and also pleased that the bill establishes six new Heritage Areas, because they have so much to offer. My District, the 1st District of Iowa, is home to Silos and Smokestacks, one of the 37 current federally designated heritage areas in the Nation. Silos and Smokestacks covers 20,000 square miles, and 37 counties in Iowa, and preserves and tells the story of Iowa and American agriculture, both past and present. Silos and Smokestacks also helps convey the global significance of Iowa and American agriculture through partnerships and activities that celebrate and honor the land, people, and communities of the area. Agriculture in Iowa is as crucial as it ever was, but has evolved significantly. Through museums, farms, schools, and historical societies, Silos and Smokestacks takes visitors on a tour through Iowa's rich agricultural history, shows how Iowa farmers have come to be where they are today, and supports the hope for a strong and prosperous agricultural future. I urge all of my colleagues to support our Nation's National Heritage Areas, and to vote in support of this bill today.

Mr. LOBIONDO. Mr. Speaker, I rise today to urge my colleagues to support H.R. 1483, which includes legislation to extend the authorization of the New Jersey Coastal Heritage Trail Route. I would first like to take this opportunity to thank my colleagues in the New Jersey delegation for their continued support of this extension. I would also like to thank Chairman RAHALL, Ranking Member YOUNG and their staff for their support and guidance.

Established by Congress in 1988, the New Jersey Coastal Heritage Trail incorporates the very best of what the great State of New Jersey has to offer to the rest of the Nation. The Trail unifies New Jersey's many scenic points of interest. These points of interest include a wealth of environmental, historic, maritime and recreational sights found along New Jersey's coastline, stretching 300 miles from Perth Amboy in the north, Cape May in the extreme southern tip of the State and Deepwater to the west.

The Trail's area includes three National Wildlife Refuges, four tributaries of a Wild and Scenic River system, a Civil War fort and National cemetery, several lighthouses, historic homes, and other sites tied to southern New Jersey's maritime history. Through a network of themes and destinations, the New Jersey Coastal Heritage Trail connects people with places of historic, recreational, environmental and maritime interest.

One exciting aspect of the Trail is its focus on maritime history. There is a rich story to be told about the industries once sustained by the Delaware Bay, such as whaling, shipbuilding, crabbing and the harvesting of oysters. While we often define our Nation's history through military or political milestones, the Trail will serve to remind visitors that maritime-dependent commerce was a major factor in the growth of the United States.

''Eco-tourism'' along the Trail has proven to be a huge success. There is an abundant variety of natural habitats and species to be found on the Trail. Whale and dolphin watching have become extremely popular, and bird lovers from throughout the country, and in fact around the world, are realizing what Southern New Jersey residents have known all along: our region is unmatched for observing migratory birds, ospreys and bald eagles.

The Trail has also helped to foster important partnerships between the Federal government and individuals, groups, corporations, State and local governments. Since the Trail began, these partnerships have resulted in additional funding amounting to almost double the investment of the Federal government.

Legislation reauthorizing the Trail was included in S. 203, the National Heritage Areas Act of 2006, which the President signed into law in October of 2006. S. 203 requires a strategic plan for the Trail to be prepared ''Not later than 3 years after the date on which funds are made available.'' Unfortunately, under S. 203, the Trail is only reauthorized through September 30, 2007.

The language pertaining to the Trail included in H.R. 1483 has the support of the entire New Jersey Congressional delegation. It would extend the authorization of the Coastal Heritage Trail Route in New Jersey until September 30, 2011. This would allow for adequate time to complete the required strategic plan, which will explore opportunities to increase participation by private and public interests, as well as organizational options for sustaining the Trail. S. 1039, a bill containing language very similar to the Trail language in H.R. 1483, was introduced in the Senate in March.

Since its inception, the New Jersey Coastal Heritage Trail has not only helped New Jersey residents develop pride, awareness, experience with, and understanding of our coastal resources and their history, it has encouraged visitors to explore this area, bringing with them much needed tourism dollars. The extension of the authorization contained in H.R. 1483 will allow the Trail to continue and flourish. I urge my colleagues in the House to support this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I have several concerns with H.R. 1483. While I may support several subtitles within this bill, changes have been made that harm the positive intent of the legislation.

An unexpected and unrequested increase, from $10 million to $15 million, in the authorization for new Heritage Areas was inserted by the Majority. No hearings have been held to discuss this change and we do not understand why it is warranted. The cost of this bill has ballooned to over $135 million.

I have further reservations because the closed rule does not provide two Members of the House the opportunity to adequately represent their districts. Mr. BARTLETT and Mr. GOODE have expressed concerns that they do not want to be included in these Heritage Areas and would prefer to be removed. I believe a Member has the right to represent his district and decide which Federal designations will be created over his constituents.

The committee has heard concerns that this bill would exacerbate the problem of Heritage Areas and their inability to operate without Federal funds. Heritage Areas are supposed to become self-sufficient: they were designed with that goal and that intent. This simply delivers more money to those heritage areas that have run through their authorization. The National Park Service testified that no National Heritage Area has succeeded in becoming self-sufficient.

We have seen evidence that the National Park Service and some Heritage Areas are violating public law by using Federal funds for lobbying. They go so far as to instruct other groups on how to start new Heritage Areas and further this problem.

In committee we sought to strengthen the private property rights protections. My Democrat colleagues believe this is the cure to a problem that does not exist. I urge them to reconsider and adopt real property protections that allow owners to withdraw from Heritage Area boundaries. This protection has been given to the last twelve Heritage Areas and should not be denied any new Heritage Areas.

Finally, the committee has learned that Heritage Area boundaries may be used to impede the placement of critical energy transmission lines. At a time when the national grid is already heavily taxed and the threat of blackouts loom, we should not build obstacles to providing Americans with reliable energy.

Mr. SHULER. Mr. Speaker, I rise today in support of H.R. 1483, Celebrating America's Act of 2007, to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend authorizations of certain natural heritage areas, including the Blue Ridge Natural Heritage Area, and for other purposes.

The mission of the Blue Ridge National Heritage Area is to protect, preserve, interpret, and develop the unique natural, historical, and cultural resources of western North Carolina for the benefit of present and future generations, and in so doing to stimulate improved economic opportunity in the region.

This bill extends authorization of the existing Blue Ridge National Heritage Area, a landscape full of superlatives: the highest mountain, Mount Mitchell; deepest gorge, Linville Gorge; and highest waterfall, Whitewater Falls in the eastern United States; the oldest river in North America, the New River; and the two most visited National Park lands in the country, the Blue Ridge Parkway and the Great Smoky Mountains National Park. The region is home to the Eastern Band of the Cherokee Indians who continue to preserve many facets of traditional Cherokee culture.

I am especially pleased that this legislation extends and increases authorization of funds for the Blue Ridge National Heritage Area and

others, and I urge my colleagues to vote in favor of this legislation and support enhancing our natural and cultural heritage for future generations.

Mr. BARTON of Texas. Mr. Speaker, I rise today to comment on one aspect of H.R. 1483: the effect of the designation of National Heritage Areas on the development and siting of needed energy infrastructure. Some of these National Heritage Areas fall within National Interest Electric Transmission Corridors that were recently designated by the Department of Energy. Development and siting of new electric transmission was an important part of the Energy Policy Act of 2005, and the designation of National Interest Electric Transmission Corridors is a critical component in getting that new transmission built.

Originally, there was concern that the designation of National Heritage Areas could impede the development of new energy infrastructure, even if that infrastructure were in a National Interest Electric Transmission Corridor. Bipartisan compromise language that has been added to the bill, along with language in the Committee Report accompanying H.R. 1483, makes it clear that the designation of a National Heritage Area should not impede the development of necessary energy infrastructure. Specifically, I understand that compromise language has been added to clarify that nothing in the bill "alters any duly adopted land use regulation, approved land use plan, or other regulatory authority (such as the authority to make safety improvements or increase the capacity of existing roads or to construct new roads) of any Federal, State, Tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including but not necessarily limited to development and management of energy or water or water-related infrastructure." I believe that this language and the accompanying report language makes it clear that a State public utility commission or the Federal Energy Regulatory Commission should not consider the fact that an area is a National Heritage Area as a basis to deny siting of energy infrastructure.

I commend the bill's authors for including this important clarification.

Mr. MARKEY. Mr. Speaker, I rise today in strong support of H.R. 1483, the "Celebrating America's Heritage Act," which would, in part, designate the Freedom's Way National Heritage Area in Massachusetts and New Hampshire. The Freedom's Way National Heritage Area would recognize the important historical contributions made by communities throughout New England to the historic events of the American Revolution.

This new heritage area would include the communities of Arlington, Lexington, Lincoln, Malden, Medford, and Wobum in my district along with 39 other communities throughout Massachusetts and New Hampshire that played a role in the birth of our Nation.

H.R. 1483 would allow for cooperation between the communities in the heritage area and the National Park Service to conserve these special places and develop increased recreational and educational opportunities for these tremendous resources.

I am proud to support the creation of this important new National Heritage Area, which will help preserve the unique history of New England. Sometimes we forget that the small towns and cities where we were born and live are also the birthplace of this great Nation. The Freedom's Way National Heritage Area designation will ensure that future generations will be able to visit, tour and learn about the communities in New England that shaped our young Nation.

This heritage area designation will allow for the commemoration of the important role that these New England communities played in shaping our Nation and I urge passage of the bill.

Mr. RAHALL. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 765, the previous question is ordered on the bill, as amended. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BISHOP OF UTAH

Mr. BISHOP of Utah. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BISHOP of Utah. Yes, in it's current form.

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

The Clerk read as follows:

Mr. Bishop of Utah moves to recommit the bill, H.R. 1483, to the Committee on Natural Resources with instructions to report the same to the House forthwith with the following amendment:

At the end of the bill, add the following new title:

TITLE VI—APPLICATION OF CERTAIN LAWS

SEC. 6001. APPLICATION OF CERTAIN STATE AND LOCAL LAWS.

All designated and future designated lands within any natural heritage area for which funding is provided under this Act shall be exclusively governed by relevant State and local laws regarding hunting, fishing, and the possession or use of a weapon, trap, or net.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah is recognized for 5 minutes in support of his motion to recommit.

□ 1130

Mr. BISHOP of Utah. Thank you, Mr. Speaker.

This particular motion to recommit ensures that the rights of State and local governments within heritage area designations will be able to regulate hunting and that it will be unharmed by this legislation.

This bill currently provides that heritage area designations shall not diminish the right of States to regulate hunting, but it is silent on the issue including the right to carry firearms.

The motion to recommit also clarifies that laws regarding fishing and possession or use of a weapon or trap shall be governed exclusively by States and localities.

The second amendment is a critical right. We want to protect our constituents against consequences of this legislation that could harm that right.

National parks have regulations that limit hunting and the right to carry or possess firearms even in States and localities where it is legally permitted. The text you see to my left is title 36 for the National Park Service Department, and this is the language that would prohibit in heritage areas those rights that even are currently allowed by State and local legislation.

These regulations harm wildlife and the environment because even local wildlife management officials are impeded in their work.

Before any attempt is made to restrict the rights of gun owners and second amendment defenders, this motion to recommit protects their legal existing rights now and in the future. It is important that it be said and be said clearly.

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

Mr. RAHALL. Mr. Speaker, I rise maybe not necessarily in opposition to the motion but, nevertheless, to claim time to speak.

The SPEAKER pro tempore. Without objection, the gentleman from West Virginia is recognized for 5 minutes.

There was no objection.

Mr. RAHALL. Mr. Speaker, this is an issue, as is typical of a minority of the minority, that has not been mentioned one iota in any of today's debate, in any of the committee debate developed on a bipartisan, nonpartisan nature in bringing this bill to the floor, not in any way brought up in any of the extensive hearings held by our subcommittee chairman, Mr. GRIJALVA, and is brought up at this last second out of the clear blue, which, again, I say should not be surprising because it is typical of a minority of the minority to make such efforts.

But I would ask the gentleman from Utah, is he referring to all Federal lands? Because as I am sure he knows, the heritage areas are not part of the national park system, the chart that he just brought forward, nor are they under the jurisdiction of the National Park Service. The heritage areas are part of a collaborative effort between Federal and State and local people with local governing units with matching dollars, not all Federal dollars, as I am sure the gentleman knows.

So I ask that question. Are you intending this language for all Federal lands?

Mr. BISHOP of Utah. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Utah.

Mr. BISHOP of Utah. As I am sure the distinguished gentleman from West Virginia knows, each and every one of the divisions within the Department of the Interior has different sets of rules and regulations. BIA land would not be a problem. A national park designation would be. So any of these heritage areas that were under the direction of the National Park Service, and there are some within this new bill, would fall under title 36. That's why this legislation desperately needs to be there,

the same amendment that we actually did present at another time in one of our committees.

So, yes, it's still significant. It's still important. It needs to be there to clarify specifically. If the intent is not to change what has been happening by the locals, this clearly sets in all these areas what has been local will continue and State and local regulations will have precedence.

Mr. RAHALL. I am not sure we are talking about the same definitions here.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. BISHOP of Utah. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 344, nays 71, not voting 17, as follows:

[Roll No. 995]

YEAS—344

Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Arcuri
Baca
Bachmann
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Cardoza
Carnahan
Carney
Carter
Castle
Chabot
Chandler
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Costa
Costello
Courtney
Cramer
Crenshaw
Cubin
Cuellar
Cummings
Davis (AL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Ellsworth
Emanuel
Emerson
English (PA)
Eshoo
Etheridge
Everett
Fallin
Fattah
Feeney
Ferguson
Filner
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Hall (NY)
Hall (TX)
Hare
Harman
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinojosa
Hobson
Hodes
Hoekstra
Holden
Hooley
Hulshof
Inglis (SC)
Inslee
Israel
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Markey
Marshall
Matheson
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sanchez, Loretta
Sarbanes
Saxton
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Sestak
Shadegg
Shays
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Spratt
Stearns
Stupak
Sullivan
Tancredo
Tanner
Taylor
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Watson
Weiner
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Yarmuth
Young (FL)

NAYS—71

Abercrombie
Andrews
Becerra
Berman
Blumenauer
Brown, Corrine
Butterfield
Capuano
Castor
Clarke
Clay
Cleaver
Conyers
Crowley
Davis (IL)
Delahunt
Ellison
Engel
Farr
Frank (MA)
Gonzalez
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hirono
Holt
Honda
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Kaptur
Klein (FL)
Kucinich
Langevin
Lee
Lewis (GA)
Lowey
Matsui
McCollum (MN)
McDermott
McGovern
Miller, George
Moran (VA)
Olver
Price (NC)
Rangel
Richardson
Roybal-Allard
Rush
Sánchez, Linda T.
Schakowsky
Serrano
Sherman
Slaughter
Solis
Stark
Sutton
Tauscher
Thompson (MS)
Tierney
Towns
Tsongas
Velázquez
Wasserman Schultz
Waters
Watt
Waxman
Welch (VT)
Wexler
Woolsey

NOT VOTING—17

Bilbray
Carson
Cooper
Culberson
Davis (CA)
Hunter
Issa
Jindal
Johnson, E. B.
Lewis (CA)
Marchant
Reyes
Shea-Porter
Walberg
Wilson (OH)
Wynn
Young (AK)

□ 1200

Messrs. DAVIS of Illinois, CONYERS, CROWLEY, BECERRA, HOLT, RUSH, FARR, INSLEE and CLEAVER, and Ms. HIRONO, Ms. WATERS, Ms. JACKSON-LEE of Texas, Ms. SUTTON, Ms. KAPTUR, Ms. SLAUGHTER, Mrs. TAUSCHER and Ms. WOOLSEY changed their vote from ''yea'' to ''nay.''

Messrs. BOEHNER, HARE, NADLER, PITTS, PASTOR, RYAN of Ohio, RUPPERSBERGER, LYNCH, GENE GREEN of Texas, INSLEE, AL GREEN of Texas, HINOJOSA, ISRAEL, and Ms. DEGETTE and Ms. SCHWARTZ changed their vote from ''nay'' to ''yea.''

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. WALBERG. Mr. Speaker, I missed the vote on rollcall No. 995 because I was visiting wounded warriors at Walter Reed. As an avid outdoorsman, and conservationist I supported the Motion to Recommit to H.R. 1483.

Had I been present, I would have voted ''yea.''

Mr. RAHALL. Mr. Speaker, pursuant to the instructions of the House in the motion to recommit, I report H.R. 1483 back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment:

At the end of the bill, add the following new title:

TITLE VI—APPLICATION OF CERTAIN LAWS

SEC. 6001. APPLICATION OF CERTAIN STATE AND LOCAL LAWS.

All designated and future designated lands within any natural heritage area for which funding is provided under this Act shall be exclusively governed by relevant State and local laws regarding hunting, fishing, and the possession or use of a weapon, trap, or net.

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

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. BISHOP of Utah. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 291, noes 122, not voting 19, as follows:

[Roll No. 996]

AYES—291

Abercrombie
Ackerman
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Bonner
Bono
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Brown (SC)
Brown, Corrine
Burgess
Butterfield
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Castle
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (IL)
Davis, David
Davis, Lincoln
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Farr
Fattah
Ferguson
Filner
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gerlach
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastert
Hastings (FL)
Hayes
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Klein (FL)
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McCrery
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Peterson (PA)
Pickering
Platts
Poe
Pomeroy
Porter
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Regula
Reichert
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Roskam
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Sherman
Shimkus
Shuler
Shuster
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Solis
Souder
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Yarmuth

NOES—122

Aderholt
Akin
Bachmann
Baker
Bartlett (MD)
Barton (TX)
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Boozman
Broun (GA)
Brown-Waite, Ginny
Buchanan
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Carter
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Davis (KY)
Deal (GA)
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Emerson
Everett
Fallin
Feeney
Flake
Forbes
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hulshof
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
Kingston
Kline (MN)
Kuhl (NY)
Lamborn
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
McCarthy (CA)
McCaul (TX)
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Petri
Pitts
Price (GA)
Putnam
Radanovich
Rehberg
Renzi
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Sali
Schmidt
Sensenbrenner
Sessions
Shadegg
Simpson
Smith (NE)
Smith (TX)
Stearns
Sullivan
Tancredo
Thornberry
Tiahrt
Tiberi
Walberg
Walden (OR)
Weldon (FL)
Westmoreland
Whitfield
Young (FL)

NOT VOTING—19

Bilbray
Carson
Cooper
Culberson
Davis (CA)
Gingrey
Hunter
Issa
Jindal
Johnson, E. B.
Lewis (CA)
Marchant
Reyes
Ross
Shea-Porter
Snyder
Wilson (OH)
Wynn
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised they have 2 minutes to record their vote.

□ 1208

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 505, NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2007

Mr. HASTINGS of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 764 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 764

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 505) to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The bill shall be considered as read. All points of order against provisions of the bill are waived. The previous question shall be considered as ordered on the bill, and any amendment thereto, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources; (2) the amendment printed in the report of the Committee on Rules, if offered by Representative Flake of Arizona or his designee, which shall be in order without intervention of any point of order (except those arising under clause 9 or 10 of rule XXI) or demand for division of the question, shall be considered as read, and shall be separately debatable for ten minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 2. During consideration of H.R. 505 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

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

Mr. HASTINGS of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Washington, my good friend, Representative HASTINGS. All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. HASTINGS of Florida. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and to insert extraneous materials into the RECORD.

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

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 764 provides a structured rule for consideration of H.R. 505, the Native Hawaiian Government Reorganization Act of 2007. The resolution provides 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. The rule makes in order an amendment offered by Representative FLAKE of Arizona. This was the only amendment submitted to the Rules Committee.

Mr. Speaker, I don't intend to speak for long about this legislation other than to express my sincere hope that this body will move forward expeditiously with its passage. Our Nation is greater because of its vast diversity and the living narrative of all those who contribute to it. However, make no mistake, our government has treated a number of cultural communities in a less than favorable manner.

Mr. Speaker, we are not here to debate the particulars of our Nation's dealings with Native Hawaiians. However, it is only right that all indigenous people should have a right to determine how they should interact with our government.

As my good friend from Hawaii, Representative NEIL ABERCROMBIE, mentioned in the Rules Committee, the current system of land tenure for Native Hawaiians is organized under the Office of Hawaiian Affairs. This State agency does not meet the needs of Native Hawaiians in the most effective manner as it is currently arranged. What the community demands and needs is an entity in which the Native Hawaiians can be effectively engaged. Rightfully, this legislation will give Native Hawaiians an opportunity to create such an entity and empower themselves with self-determination.

I do want to make note of my concern that there are some in this body who are seeking to create controversy where none exists. Contrary to what some say today, this bill does not allow gaming on Native Hawaiian lands, nor does it lay the groundwork for gaming. On the contrary, it takes the necessary steps to put Native Hawaiians on the necessary path to control their destiny.

Additionally, similar legislation has passed the House in the 106th Congress and was reported out of the Natural Resources Committee in both the 107th and 109th Congresses. Unfortunately, the measure was never taken any further until today.

Mr. Speaker, this rule provides the appropriate framework for debate on this bipartisan legislation, which is the culmination of many years of negotiation. I have been in this body, and I have seen NEIL ABERCROMBIE, and now MAZIE HIRONO, and before, Patsy Mink, work actively on this particular legislation.

The lack of amendments submitted to the Rules Committee for this legislation is a testament to years of bipartisan collaboration. It is only right that we bring this legislation to the full floor today in this manner.

I urge my colleagues to support the rule and the underlying legislation.

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

Mr. HASTINGS of Washington. Mr. Speaker, I want to thank my friend and namesake from Florida (Mr. HASTINGS) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

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

□ 1215

Mr. HASTINGS of Washington. Mr. Speaker, the underlying legislation, offered in good faith by my friend and colleague from Hawaii (Mr. ABERCROMBIE), would create a process, and I want to emphasize ''process,'' because that is what this is, for establishing and recognizing a Native Hawaiian government entity that would be empowered to act on behalf of its members with the State and Federal Government.

However, Mr. Speaker, as the Wall Street Journal noted in 2005, the practical effect of granting this status to self-identified Native Hawaiians would be to allow this new class of American citizens to declare, and I quote again from the Wall Street Journal, ''complete legal and territorial independence from the United States and the establishment of a Hawaiian nation-state.''

Mr. Speaker, before this statement is dismissed out of hand as a completely unbelievable statement dreamed up by the editorial board of the Wall Street Journal, I should mention that they were not the ones that were making this claim. They were merely reporting on a statement made by the State Office of Hawaiian Affairs, which first acknowledged this fact.

In addition, a recent statement made by the U.S. Civil Rights Commission raised concerns that this legislation, and, again, I quote from the U.S. Civil Rights Commission, ''would discriminate on the basis of race or national origin and further subdivide American people into discrete subgroups according to various degrees of privilege.''

Despite the best efforts of this legislation's advocates to compare Native Americans with Native American tribes who govern reservations and often live on them, this legislation would make it possible for our next-door neighbors in Hawaii to suddenly coexist under different legal regimes, a clear violation of the 14th amendment of the Constitution's equal protection clause.

Mr. Speaker, because this legislation would grant broad governmental powers to a racially defined group, to include all living descendants. The new Native Hawaiians created by this bill would need no geographic, political or cultural connection to Hawaii, much less a physical connection to a distinct Native Hawaiian community. As the Federal courts have recently explained, this is problematic. Again, I quote the Federal courts: ''The history of the indigenous Hawaiians is fundamentally different from that of indigenous groups in federally recognized Indian tribes in the continental United States.''

Finally, Mr. Speaker, this legislation raises significant constitutional concerns, which have been raised on other bills this year, namely, H.R. 8345, the Hawaiian Ownership Act of 2007, which the House considered in March of this year. The Hawaiian Township Act initially failed under suspension of the rules because 162 Members of the House recognized, and in 2000, the Supreme Court ruled in Rice v. Cayetano, that the current configuration of Justices would likely strike down the Federal benefits flowing to Native Americans as an unconstitutional racial set-aside, if given the chance.

Mr. Speaker, I believe that there are legitimate constitutional concerns that must be addressed in the underlying Native Hawaiian Government Reorganization Act. I am pleased, Mr. Speaker, that the rule makes in order an amendment to be offered by Mr. FLAKE of Arizona that would attempt to address the constitutional concerns and ensure the underlying legislation complies with the equal protection clause of the 14th amendment of the United States Constitution.

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

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to my friend, the distinguished gentlewoman from Hawaii (Ms. HIRONO), who is an original sponsor of this measure.

Ms. HIRONO. Mr. Speaker, I rise in support of the rule. I thank Chairman SLAUGHTER and Vice Chair MCGOVERN for the rule which fairly gives the only amendment to be filed due consideration pursuant to House rules. I disagree with the amendment because it, if adopted, unnecessarily creates confusion where none exists.

The Native Hawaiian Government Reorganization bill is a good one, the result of over 6 years of fine-tuning and negotiations, including significant compromises with the Department of Justice, Department of the Interior, and the Office of Management and Budget to conceive a law that should be approved by all persons concerned with the welfare of Native Hawaiians.

This bill is supported by the Republican Governor of the State of Hawaii, the Hawaii State legislature, the American Bar Association, the National Congress of American Indians, the National Education Association, the NAACP, League of United Latin American Citizens, and dozens of other civil rights, professional associations and unions.

I will enter into the RECORD a list of all supporters of this measure, as well as letters of support from the Governor of the State of Hawaii, Linda Lingle; the American Bar Association; National Congress of American Indians; and the Japanese American Citizens League, and thank them for their wholehearted support.

Mr. Speaker, let me close by quoting a sentence from the letter from the National Congress of American Indians, which is of particular relevance to the proposed amendment to be offered. ''To invoke the equal protection or due process clause of the Constitution in this context, as some of the legislation's critics attempt to do, is a perversion of what those clauses were intended to do. Those submitting this argument are using the very cornerstones of justice and fairness in our democracy to deny equal protection to one group of indigenous people.''

Mr. Speaker, I urge this body to adopt the rule so we may get on to the merits of this important legislation that will at long last afford the Native Hawaiian people self-determination and self-governance long given to other indigenous people of the United States but denied to Native Hawaiians.

S. 310/H.R. 505: NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT—TO EXPRESS THE POLICY OF THE U.S. REGARDING THE U.S. RELATIONSHIP WITH NATIVE HAWAIIANS AND TO PROVIDE A PROCESS FOR THE RECOGNITION BY THE U.S. OF THE NATIVE HAWAIIAN GOVERNING ENTITY

STANDING TOGETHER FOR JUSTICE

The following groups, entities and individuals from around the islands and across the Nation have pledged their support for Native Hawaiian self-determination through federal legislation extending a process of official recognition to Native Hawaiians as the indigenous people of Hawai'i, similar to the existing federal policy available to American Indians and Alaska Natives:

Hawai'i organizations & entities

Alu Like, Inc.; Alan M. Arakawa, Mayor, County of Maui; Association of Hawaiian Civic Clubs; Council for Native Hawaiian Advancement; Daughters and Sons of Hawaiian Warriors—Māmakakaua; Hale O Na Ali'i O Hawai'i; Hawaii Carpenters Union; Hawaii Government Employees Association (HGEA); Hawaii State AFL–CIO; Hawai'i State Legislature; and Hawai'i State Teachers' Association.

Hawaiian Homes Commission; Hui Hānai; Hui Kāko'o 'Āina Ho'opulapula; I Mua Group; International Longshore and Warehouse Union (ILWU); Japanese American Citizens League (Honolulu Chapter); Kamehameha Schools; Kamehameha Schools Alumni Association (KSAA); Ko'olaupoko Hawaiian Civic Club; and Kualoa-Heeia Hawaiian Civic Club.

Linda Lingle, Governor, State of Hawai'i; Nānakuli Housing Corporation; National Association of Social Workers (Hawaii Chapter); Native Hawaiian Chamber of Commerce; Native Hawaiian Economic Alliance; Office of Hawaiian Affairs; Royal Order of Kamehameha 1; and State Council of Hawaiian Homestead Associations.

National, regional & international entities

Affiliated Tribes of Northwest Indians (ATNI)—Established in 1953, ATNI represents and advocates for regional, national and specific Tribal concerns. It is comprised of 54 Northwest Tribal governments from Oregon, Idaho, Washington, southeast Alaska, northern California and western Montana.

Alaska Federation of Natives (AFN)—AFN is the largest statewide Native organization in Alaska. It represents over 200 Alaska Native villages, corporations, and associations. AFN's mission is to enhance and promote the cultural, economic, and political voice of the entire Alaska Native community.

American Bar Association (ABA)—The American Bar Association is the largest voluntary professional association in the world. With more than 400,000 members, the ABA provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges in their work, and initiatives to improve the legal system for the public.

Association of Asian Pacific Community Health Organizations (AAPCHO)—AAPCHO is a national association representing community health organizations dedicated to promoting advocacy, collaboration and leadership that improves the health status and access of Asian Americans, Native Hawaiians and Pacific Islanders within the United States, its territories and freely associated states, primarily through member community health clinics.

Governors' Interstate Indian Council (GIIC)—Represents 21 state Indian Affairs agencies and organizations.

Inter Tribal Council of Arizona (ITCA)—Established in 1952, ITCA is comprised of 19 member tribes and provides a united voice for tribal governments located in the State of Arizona.

Japanese American Citizens League (JACL—National)—JACL is the Nation's oldest and largest Asian Pacific American civil rights organization, with over 24,000 members in 23 states.

Leadership Conference on Civil Rights (LCCR)—LCCR consists of more than 180 national organizations, representing persons of color, women, children, labor unions, individuals with disabilities, older Americans, major religious groups, gays and lesbians and civil liberties and human rights groups.

League of United Latin American Citizens (LULAC—National)—With approximately 115,000 members throughout the United States and Puerto Rico, LULAC is the largest and oldest Hispanic organization in the United States.

League of United Latin American Citizens (LULAC—California).

Mexican American Legal Defense and Educational Fund (MALDEF)—MALDEF is the leading nonprofit Latino litigation, advocacy and educational outreach institution in the U.S.

Asian American Justice Center (AAJC)—AAJC, formerly the National Asian Pacific American Legal Consortium, is one of the Nation's leading experts on issues of importance to the Asian American community including: affirmative action, anti-Asian violence prevention/race relations, census, immigrant rights, language access, and voting rights.

National Association for the Advancement of Colored People (NAACP)—The NAACP is the Nation's oldest and largest civil rights organization. Its half-million adult and youth members throughout the United States and the world are the premier advocates for civil rights in their communities while conducting voter mobilization and monitoring equal opportunity in the public and private sectors.

National Association of Social Workers (NASW)—The National Association of Social Workers represents over 150,000 social workers in the U.S.

National Coalition of Asian Pacific Americans (NCAPA)—NCAPA is a coalition of the Nation's leading Asian Pacific American organizations. It represents the interests of the greater APA community and provides a national voice on APA issues.

National Coalition for Asian Pacific American Community Development (National CAPACD)—National CAPACD's mission is to enhance the capacity and ability of community based organizations to conduct community development activities for the Asian and Pacific Islander American communities.

National Congress of American Indians (NCAI)—NCAI is the Nation's oldest and largest American Indian and Alaska Native organization that represents over 250 member tribes.

National Council of La Raza (NCLR)—NCLR is the largest constituency-based national Hispanic organization, serving all Hispanic nationality groups in all regions of the country. NCLR has over 270 formal affiliates who together serve 40 states, Puerto Rico, and the District of Columbia—and a broader network of more than 30,000 groups and individuals nationwide—reaching more than three and a half million Hispanics annually.

National Indian Education Association (NIEA)—Established in 1969, NIEA is the largest national Indian organization of American Indian, Alaska Native and Native Hawaiian educators, administrators, parents and students in the United States, providing a forum to discuss and act upon issues affecting the education of indigenous people.

National Organization of Pacific Islanders in America (NOPIA)—NOPIA is dedicated to ensuring the protection of rights and fair treatment of all Pacific Islander Americans through legislative and policy initiatives at all levels of government.

Organization of Chinese Americans (OCA)—OCA is dedicated to securing the rights of Chinese American and Asian American citizens and permanent residents through legislative and policy initiatives at all levels of the government. OCA aims to embrace the hopes and aspirations of the nearly 2 million citizens and residents of Chinese ancestry in the United States as well as to better the lives of the 10 million Asian Americans across the country.

Tribal Education Departments National Assembly (TEDNA)—A membership organization for the Education Departments of American Indian and Alaska Native Tribes.

United South and Eastern Tribes (USET)—USET is an inter-tribal organization that collectively represents its 24 federally recognized member Tribes at the regional and national level. USET is dedicated to promoting Indian leadership, improving the quality of life for American Indians, and protecting Indian rights and natural resources on tribal lands.

Virginia Indian Tribal Alliance For Life (VITAL)—An independent public organization, established to support Virginia Indian Initiatives by funding lobbyist and bipartisan political campaigns which support the needs of Virginia Indians in education, healthcare and economic development.

Commonwealth of the Northern Mariana Islands Public Lands Authority—Established by the Constitution of the Commonwealth of the Northern Mariana Islands to manage and dispose of the public lands for the benefit of the people of the Commonwealth who are of Northern Marianas descent.

National Federation of Filipino American Associations—Hawaii Pacific Region 12 (NaFFAA—HPR 12)—NaFFAA was established in 1997 to promote the welfare and well-being of all Filipinos and Filipino Americans throughout the U.S., and Region 12 is Hawai'i, Guam and Commonwealth of Northern Mariana Islands.

Individual Supporters: Joe Shirley, President, Navajo Nation.

Introducers of S. 310 on 1/17/07: Senator Daniel K. Akaka and Senator Daniel K. Inouye.

S. 310 Co-Sponsors: Senator Maria Cantwell on 1/17/07, Senator Norm Coleman on 1/17/07, Senator Byron L. Dorgan on 1/17/07, Senator Lisa Murkowski on 1/17/07, Senator Gordon H. Smith on 1/17/07, Senator Ted Stevens on 1/17/07, and Senator Christopher J. Dodd on 1/17/07.

Introducers of H.R. 505 on 1/17/07: Representative Neil Abercrombie and Representative Mazie Hirono.

H.R. 505 Co-Sponsors: Delegate Madeleine Z. Bordallo on 2/27/07, Delegate Eni Faleomavaega on 2/27/07, and Representative James P. Moran on 2/27/07.

NATIONAL CONGRESS OF AMERICAN INDIANS,
Washington, DC, October 22, 2007.

Re Support H.R. 505—Native Hawaiian Government Reorganization Act of 2007.

DEAR REPRESENTATIVE: I am writing on behalf of the National Congress of American Indians (NCAI), the nation's oldest and largest organization of tribal governments, to express our strong support of H.R. 505, the Native Hawaiian Government Reorganization Act of 2007. As this matter has made its way through Congress, the NCAI member tribes have consistently passed resolutions supporting the Native Hawaiian right to self-determination (attached). NCAI and the tribal nations we represent continue to support

Native Hawaiian people in their efforts towards a path to self-determination, and we urge you to do the same by voting in favor of H.R. 505.

H.R. 505 would reaffirm the Native Hawaiian right to self-governance and enable the creation of a process that will lead to self-determination and economic self-sufficiency for Native Hawaiian people. Like all of the nation's indigenous peoples, Native Hawaiians lived on their homelands and governed their own affairs before the first contact with Europeans until the overthrow of the Native Hawaiian government in 1893. Since that time, Native Hawaiians have continued to suffer more than a century of injustice, including neglect and abuse of Native Hawaiian entitlements and civil rights, by the United States.

Like all of the indigenous peoples of the United States, Native Hawaiians deserve the right to determine their own future. The purpose of self-determination is not simply for its own sake. Rather, it is what enables indigenous people to maintain their culture, language, and identity. This is a purpose that all American citizens can support. Congress has consistently supported Native Hawaiian recognition through numerous programs intended to benefit Native Hawaiians along with the other indigenous peoples of the United States. Furthermore, it is a purpose that was recently affirmed by the United Nations in the Declaration on the Rights of Indigenous Peoples, which passed with overwhelming support.

Some critics have misstated the effect of H.R. 505. Let me be clear that this bill, like all legislation impacting tribal governments, concerns U.S. policy toward and relationship with the nation's sovereign, indigenous peoples and is not race-based legislation. The unique legal and political relationship that indigenous Hawaiians have with the United States is like that of all Native Americans and is based on our status as aboriginal people with pre-existing governments with whom the U.S. entered treaties and other agreements. It is this historical, political reality that provides the foundation for the unique relationship that has always existed—and continues to exist today—between the United States and the indigenous people whose homelands fall within the borders of what is now the United States.

The argument that recognition of a Native Hawaiian governing entity would establish a race-based government is antithetical to the very foundation of the United States government's relationship with the indigenous peoples who have inhabited this land from time immemorial—a relationship that has long been recognized by Congress, the federal courts, and the Executive branch. Those making this argument are suggesting that Native Hawaiians should, and indeed must, be treated differently from the other indigenous peoples residing in what is now the United States.

The Native Hawaiian Government Reorganization Act would establish parity for Native Hawaiians with the other indigenous peoples of America. To invoke the equal protection or due process clauses of the Constitution in this context, as some of the legislation's critics attempt to do, is a perversion of what those clauses were intended to do. Those submitting this argument are using the very cornerstones of justice and fairness in our democracy to deny equal treatment to one group of indigenous people.

The Native Hawaiian Government Reorganization Act is consistent with this country's longstanding commitment to preserving the right of indigenous people to continue to exist as peoples. Passage of the bill is a matter of fundamental fairness and will rectify an injustice that has existed for far too long. Its enactment will set Native Hawaiians on the path toward self-determination and self-governance, as is their inherent right. I urge you to support H.R. 505. Please contact myself or Virginia Davis, vdavis@ncai.org or 202–466–7767 with any questions. As always, I thank you for your leadership on this important issue.

Sincerely,

JOE GARCIA,
President.

THE NATIONAL CONGRESS OF AMERICAN INDIANS: RESOLUTION #PHX–03–004

TITLE: SUPPORT FEDERAL LEGISLATION CALLING FOR RECOGNITION OF THE HAWAIIAN NATION AND RETURN OF LAND TO THE HAWAIIAN NATION

Whereas, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people and their way of life, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

Whereas, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

Whereas, the federal policy affords all Native Americans and Alaska Natives the right to be self-governing within a defined land base; and

Whereas, there is a need for self-government; and

Whereas, the NCAI at its 56th annual session adopted Resolution #99–042, at its 57th annual session adopted Resolution #00–032 and at it 58th annual session adopted Resolution #SPO–01–087, all of which support the sovereign rights of native Hawaiians and recognizes the need to develop a true government-to-government relationship with the Hawaiian nation; and

Whereas, NCAI also adopted the same resolution that the Hawaiian Nation's goal is federal recognition as a sovereign indigenous nation with inherent rights to self-determination and self-governance.

Now therefore be it resolved, that the NCAI does hereby support federal legislation calling for recognition of the Hawaiian nation, a self-determined entity created by and for native Hawaiians and their descendants in furtherance of a true government-to-government relationship; and

Be it further resolved, that the NCAI further supports the return of land to the Hawaiian Nation; and

Be it further resolved, that this resolution shall be the policy of the NCAI until it is withdrawn or modified by subsequent resolution; and that a copy of this resolution be transmitted to the Hawaii state legislature, the Governor of the state of Hawaii, the Hawaii congressional delegation, the Congress of the United States of America, the Secretary of the Department of the Interior, the Attorney General of the United States, the Secretary of State, the President of the United States and the Trustees of the Office of Hawaiian Affairs; and

Be it finally resolved, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted at the 2003 Mid-Year Session of the National Congress of American Indians, held at the Sheraton Wild Horse Pass Gila River Indian Community, in Phoenix, Arizona on June 18, 2003 with a quorum present.

TEX HALL,
President.

Attest: Juana Majel.

Adopted by the General Assembly during the 2003 Mid-Year Session of the National Congress of American Indians, held at the Sheraton Wild Horse Pass Gila River Indian Community, in Phoenix, Arizona on June 18, 2003.

EXECUTIVE CHAMBERS,
Honolulu, Hawaii, October 23, 2007.

Re H.R. 505—Native Hawaiian Government Reorganization Act of 2007.

Hon. NANCY PELOSI,
Speaker of the House, Canon House Office Building, Washington DC.

Hon. JOHN A. BOEHNER,
House Minority Leader, Longworth House Office Building, Washington, DC.

DEAR SPEAKER PELOSI AND HOUSE MINORITY LEADER BOEHNER: I am writing to you to express my very strong and unqualified support for the Native Hawaiian Government Reorganization Act of 2007, H.R. 505, often referred to as the ''Akaka Bill.'' Enactment of this important bill is just and fair and will help to preserve the language, identity, and culture of Native Hawaiians.

I am very pleased that the bill will likely be considered this week on the House floor, as this bill has the bipartisan support of almost every elected official in Hawaii, the strong support of Hawaii's business community, and most importantly, the strong support of Hawaii's people.

H.R. 505 would afford Native Hawaiians a long overdue measure of justice by providing them with the means to reorganize a formal self-governing entity. That entity would allow them to regain a portion of the self-determination taken from them over a century ago. This country's other native peoples, including American Indians and Alaska Natives, have been allowed to exercise some form of self-governance for decades. Native Hawaiians, therefore, are not asking for ''preferential'' status, but rather the same treatment all other of America's native peoples have received.

The bill does not create ''racial'' distinctions, but rather affords participation in the Native Hawaiian Governing Entity to those who are descendants of the indigenous people of the Hawaiian Islands, a criterion Congress has long characterized as being non-racial. Indeed, Congress has already recognized Native Hawaiians to a large degree, by repeatedly singling out Native Hawaiians for special treatment, by acknowledging a ''special relationship'' with Native Hawaiians, and by stating that ''the political status of Native Hawaiians is comparable to that of American Indians.'' This bill formalizes that status by providing Native Hawaiians with an actual limited self-governing entity.

H.R. 505 is surely constitutional, as the United States Supreme Court has consistently upheld the special status of indigenous peoples and defers to Congress's near plenary authority to decide which native peoples to recognize.

I began this letter by stating my unqualified support for H.R. 505. I conclude by respectfully asking for you to support this important measure as well. I thank you in advance for your consideration of this request.

Sincerely,

LINDA LINGLE,
Governor.

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, October 23, 2007.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the American Bar Association, I urge your support for the Native Hawaiian Government Reorganization Act of 2007, H.R. 505, introduced by Representative Neil Abercrombie (D–HI).

The ABA, as the national voice of the legal profession, has a long standing interest in the legal issues concerning America's native and indigenous peoples. Over the past twenty years, our House of Delegates has adopted numerous policies supporting self-determination and self-governance for American Indians and Alaska Natives. In 2006, we adopted policy supporting the right of Native Hawaiians to seek federal recognition of a native governing entity within the United States similar to that which American Indians and Alaska Natives possess under the Constitution.

The ABA supports H.R. 505. It is a conservative measure drafted to provide an ordered process that would lead to renewed self-determination for the Native Hawaiians. The goal is the creation of a political entity within U.S. borders developed by the indigenous Hawaiian people to serve, maintain and support their unique cultural and civic needs, including advocacy on their behalf on the federal and state level.

This would represent a return to self-determination for the Hawaiian people and a renewal of federal support for their unique history. For 1,000 years prior to the overthrow of the Hawaiian monarchy, the people who we now know as the Native Hawaiians lived under an organized political framework governed by the rule of law. This kingdom had a written constitution and was recognized by the U.S. Government as a sovereign nation. Congress ratified treaty agreements with it and recognized its representatives.

In 1893, U.S. agents acting without official sanction orchestrated a coup against this sovereign state and overthrew Hawaii's last queen. Acknowledging this crime and the continuing effect it had on Queen Liliuokalani's subjects, Congress chose to intercede by taking a managerial posture towards the kingdom's assets and accepting a fiduciary duty to the Native Hawaiians and their progeny. This was the beginning of a unique relationship between Congress and the Hawaiian people. In 1993, the destruction of the Hawaiian nation's last government was acknowledged with regret in U.S. law (Public Law 103–150, also known as the Apology Resolution). H.R. 505 would allow the Hawaiian people the right to govern their own destiny by replacing the Congressional mandate with Native Hawaiian governance within the state of Hawaii.

Opponents of this legislation claim that allowing Native Hawaiians the right to self governance would imperil the constitutional rights of non-Native Hawaiians to equal protection under the law. They point to the former Kingdom's wealth and claim that self-determination will create a system of benefits disadvantaging those who are not of Native Hawaiian heritage. However, Native Hawaiians, in seeking rights and privileges that other indigenous people of the United States enjoy under our system of law, are not compromising the rights of others but exercising their own rights to property, to self-determination and to be recognized as an indigenous people by Congress.

The right of Native Hawaiians to use of the property held in trust for them and the right to govern those assets is not in conflict with the Equal Protection Clause since it rests on independent constitutional authority regarding the rights of native nations contained within the text of Articles I and II of the Constitution. The constitutional framers recognized the existence of native nations within the United States that predated our own democracy and created a system for federal recognition of indigenous nations within our then expanding borders. The framers empowered Congress through the Indian Commerce Clause and the Treaty Clause to maintain relations between the U.S. federal government and the governments of these native nations. Our courts have upheld Congress' power to recognize indigenous nations and have specifically recognized that this power includes the power to re-recognize nations whose recognition has been compromised in the historical past. Thus, the Native Hawaiians have the right to be recognized by this body, this right is not in conflict with the rights of others, and this recognition may be renewed despite historical lapses.

I urge you to support the rights of Native Hawaiians to self-determination by voting for H.R. 505 and against any weakening amendments.

Sincerely,

DENISE A. CARDMAN,
Acting Director.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to my friend, the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I rise in support of this act. Having great familiarity with the peoples of the Hawaiian Islands and with Native Hawaiians, I understand their concerns that we should have codified a stronger statement of what their rights are as indigenous peoples.

This is really about making sure that language and culture and history are preserved. It also is consistent with the law which created the admission of Hawaii to this Union. I think the date, Mr. ABERCROMBIE could correct me if I am wrong, it was August 21, 1959. That was an important date for this Nation, because it is a day that we embraced not only Hawaii but Alaska. It was a day that we embraced the potential of this country to extend its reach and embrace peoples of many different cultures.

This act is an act that needs to be passed so that we can keep unfolding the real purpose and quality of America.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve my time,

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased at this time to yield 6 minutes to the distinguished gentleman from Hawaii (Mr. ABERCROMBIE), the sponsor who has labored with this legislation actively in several Congresses, who is from the Committee on Natural Resources, and the author of this bill.

Mr. ABERCROMBIE. Mr. Speaker, inasmuch as this is a discussion on the rule and not necessarily on the bill itself, I would like to confine my remarks, at least in this initial phase of dealing with the issue, on some of the points raised by my good friend and colleague Mr. HASTINGS. I am appreciative of the points that he raised, because I think they are in need of not so much refutation but perhaps clarification.

It is easy to understand why those who are not necessarily familiar, and I am not speaking about Mr. HASTINGS personally, I am talking about the references that he cited in his commentary, it is easy to understand why people who are not familiar with a little bit of the history of Hawaii could come to some of the conclusions or make some of the observations that they have. Absent the context within which this bill is coming forward, it is understandable. That context then is what I want to establish, so that it becomes clear.

I certainly don't want to get in an argument with the editorial board of the Wall Street Journal either, and they are making some quotations there about complete territorial independence.

Well, I think what is being referred to there, and what the likelihood of the reference is, is that there was in fact not territorial in the sense of annexation of territory, like the Philippines or Hawaii or Puerto Rico or that kind of thing that occurred during the kind of ''imperial phase'' of the United States, but there was in fact territorial independence, because Hawaii was a kingdom. It is one of the things that kind of gets lost in the shuffle, and that is one of the reasons we are here today, Mr. Speaker.

The United States of America has in fact had, over a 175-year period leading up to the overthrow of the kingdom in 1893, a series of treaties and conventions; 1826, 1842, 1849, 1875, 1887, dealing with commerce, dealing with trade, dealing with various recognitions. The Kingdom of Hawaii had treaties and conventions with other nations, as well as the United States.

So as a result of that history, we have a succession of land claims and assets that have come from the time of the kingdom to the shotgun republic that occurred after the overthrow of the kingdom and the annexation of the United States into the territory, and into finally becoming a State, as was indicated, in 1959. We are in fact the last State to enter the Union, along with Alaska in 1959.

I bring this up simply to point out that far from subdividing the American people, as was cited by my good friend, quite the contrary; it incorporates the politics as well as the historical reality of this land secession and the assets associated with it, because this land generates income.

Basically what this is about, Mr. Speaker, is land and other assets, including money, and who controls it. When this land came in, it wasn't worth anything. The Wall Street Journal did not comment, I am certain, on the ceded lands. They are called ''ceded lands'' because they were ceded from the kingdom to the succeeding governmental entities. They could care less,

the Wall Street Journal, about these lands when they were worth nothing, when they were not seen to be able to be marketed.

But let me explain now, and I ask my good friend as I look at him now with a smile on my face, we are talking about land in Hawaii? You are talking big bucks. You are talking money here. That is what this is about is land and money and who controls it. And this land has, from the time of the kingdom, resided with the Native Hawaiians. That is who is to be the beneficiary.

That takes me to the point, Mr. Speaker, of the entry into the Union. The Admissions Act requires us, requires us, the Admissions Act of 1959 requires us to utilize those lands and assets for the benefit of Native Hawaiians. That is in the Admissions Act.

□ 1230

We are not here on the floor today because we didn't have anything better to do in Hawaii than to try to bring this to the Federal Government. On the contrary, the Admissions Act requires us to make certain that these lands are utilized for the benefit of Native Hawaiians. The reason we have the bill here is that in order to accomplish that, we need to get a governing entity that can come to the Department of the Interior for approval in order to be able to conduct the affairs, similarly to, parallel to what now happens with Native Americans in the so-called lower 48 in the mainland of the United States and with various Alaska Natives and corporations and other entities that have been set up in Alaska.

This is a history of indigenous people. They are different from other indigenous people because they were a kingdom, and we would not have the 2 million acres we are talking about had those acres not been associated with an indigenous people. They are not imaginary, they are real.

Finally, let me say with Rice v. Cayetano, Governor Cayetano, the first Filipino American to be elected Governor, that issue was settled on a question of voting procedures and had nothing whatsoever to do with programs for Native Hawaiians.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

I appreciate my friend from Hawaii's clarification on this, and I just want to point out a couple of things in my opening remarks.

I emphasized that this is a process which I think acknowledges the fact that there is a history that goes back to when Hawaii was a kingdom, and so I acknowledge that point. But I simply raise those issues because those issues I think are important when we talk about the United States as a whole, as a government under laws and everybody being treated equal, and these are questions that I think need to be addressed.

I appreciate very, very much my friend's clarification on this. The point that this is a process and the point that there is some lineage going back from a State to a territory to a kingdom probably has some viability to it.

But there are always unintended laws when we write national laws that appeal to one State or one set of people. That is what we have to be cautious about. That is why I simply raise these concerns. The issue is before us. We have a rule and we have made in order an amendment that deals with the 14th amendment. I think that is important to be discussed, and I doubt if this issue will be completely decided here today.

With that, I reserve the balance of my time.

Mr. HASTINGS of Florida. I am the last speaker, and I will reserve my time until the gentleman closes.

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

Mr. Speaker, I will be asking Members to oppose the previous question so that I may amend the rule to have Speaker PELOSI, in consultation with Republican Leader BOEHNER, immediately appoint conferees to H.R. 2642, the Military Construction and Veterans Affairs Appropriations Act for 2008.

Two days ago a number of news publications, including Roll Call, reported that the Democrat leadership intends to play political games and hold off on sending any appropriations bills to President Bush so that they can use an upcoming anticipated veto of the Labor-HHS appropriations bill to serve as ''an extension of their successful public relations campaign on the State Children's Health Insurance Program.'' Roll Call is the one that made that observation on October 22, 2007.

While the House Democrat leadership plays politics on this issue, however, our Nation's veterans are paying the price. The Senate has already done its work and appointed conferees for this bill. And for every day that House Democrats allow the veterans funding bill to languish without conferees for their only political advantage, our Nation's veterans lose $18.5 million, money that could be used for veterans housing, veterans health care, and other important veterans support activities.

On October 18, American Legion National Commander Marty Conaster, five national vice commanders and all 55 Legion national executive committee members sent Speaker PELOSI a letter pleading with her to put partisanship aside and provide this funding for the troops.

Mr. Speaker, I include a copy of the letter for the CONGRESSIONAL RECORD.

THE AMERICAN LEGION,
Indianapolis, IN, October 18, 2007.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR SPEAKER PELOSI: Today ends the Fall meeting of The American Legion's National Executive Committee, at The American Legion's National Headquarters in Indianapolis, Indiana. The National Executive Committee consists of an elected leader from each of The American Legion's 55 Departments (50 States, the District of Columbia and four foreign countries). In accordance with The American Legion's National Constitution and By-laws, the National Executive Committee serves as The American Legion's governing body.

The National Commander Marty Conatser briefed The National Executive Committee on an array of issues to include the status of the VA budget for FY 2008. The fiscal activities of the 110th Congress—the FY 2007 Continuing Resolution, the Budget Resolution for FY 2008, and the passage of the Military Construction, Veterans' Affairs and Related Agencies Appropriations for FY 2008 were reviewed.

However, in trying to grasp why such a bipartisan bill, which passed overwhelmingly in both chambers, still hasn't moved in over a month is rather difficult, especially since the President has already said he would not veto the bill, even though it exceeds his recommendations. Understanding why the appropriations process has come to a complete halt is difficult. What is preventing the appointment of conferees, the Conference Committee, or passage of a Conference Report?

We are now in the new fiscal year with no idea when the Mil Con-VA appropriations will be passed. If history repeats itself, this standoff may last well into the second quarter of the fiscal year. This uncertainty is disturbing to not only The American Legion and other veterans' and military service organizations, but to every veteran who is dependent on VA for timely access to quality health care, earned benefits, and other services provided by a grateful nation.

Madam Speaker, the newest generation of wartime veterans are reporting to VA medical facilities every day as troops are returning from deployments to Iraq and Afghanistan. Some will be determined to be service-connected disabled because of medical conditions incurred or aggravated while on active-duty. Others may very well have invisible scars that need attention as soon as possible. As VA welcomes new patients, the existing patient population cannot be ignored nor should their health care be rationed due to limited available resources. There are veterans dependent on VA as their life-support system.

The American Legion represents 2.6 million wartime veterans, but also speaks for the 24 million veterans of the United States Armed Forces and their families.

Please continue the appropriations process—name conferees, convene the Conference Committee, and pass the Conference Report.

Sincerely,

Marty Conatser, National Commander; Thomas L. Burns, Jr. (DE), National Vice Commander; Randall A. Fisher (KY), National Vice Commander; David A. Korth (WI), National Vice Commander; James L. Van Horn (AK), National Executive Committeeman; Ross Rogers (AK), National Executive Committeeman; Peggy G. Dettori (AK), National Vice Commander; Donald Hayden (MN), National Vice Commander; Floyd W. Turner (AL), National Executive Committeeman; Julius Maklary (AZ), National Executive Committeeman; James W. Hackney (CA), National Executive Committeeman.

Jeff Luginbuel (CO), National Executive Committeeman; John J. Jackson (DE), National Executive Committeeman; Robert J. Proctor (FL), National Executive Committeeman; Ray Hendrix (GA), National Executive Committeeman; Cleve Rice (ID), National Executive Committeeman; W. Darrell Hansel

(IN), National Executive Committeeman; David O. Warnken (KS), National Executive Committeeman; Charles D. Aucoin (LA), National Executive Committeeman; Dr. Gordon B. Browning (MD), National Executive Committeeman; Richard W. Anderson (CT), National Executive Committeeman; Paul H. _____, for Walter W. Norris (DC), National Executive Committeeman; William E. Marshall (France), National Executive Committeeman; Andrew W. Johnson (HI), National Executive Committeeman; Kenneth J. Trumbull (IL), National Executive Committeeman; Michael E. Wanser (IA), National Executive Committeeman; Randall Coffman (KY), National Executive Committeeman; Robert A. Owen (ME), National Executive Committeeman; James F. Army (MA), National Executive Committeeman.

John E. Hayes (Mexico), National Executive Committeeman; Virgil V. Persing (MN), National Executive Committeeman; David N. Voyles (MO), National Executive Committeeman; Michael J. Landkamer (NE), National Executive Committeeman; John E. Neylon (NH), National Executive Committeeman; Bruce Jorgensen (NM), National Executive Committeeman; Jerry L. Hedrick (NC), National Executive Committeeman; Carl W. Swisher (OH), National Executive Committeeman; Charles E. Schmidt (OR), National Executive Committeeman; Gerald N. Dennis (MI), National Executive Committeeman; Charles E. Langley (MS), National Executive Committeeman; Bob O. Beals (MT), National Executive Committeeman; Ron Gutzman (NV), National Executive Committeeman; William A. Rakestraw, Jr. (NJ), National Executive Committeeman; Paul Mitras (NY), National Executive Committeeman; Curtis O. Twete (ND), National Executive Committeeman; Bobby J. Longenbaugh (OK), National Executive Committeeman; Alfred Pirolli (PA), National Executive Committeeman.

William J. Kelly (Philippines), National Executive Committeeman; Ernest Gerundio (RI), National Executive Committeeman; Paul A. Evenson (SD), National Executive Committeeman; Ronald G. Cherry (TX), National Executive Committeeman; Leslie V. Howe (VT), National Executive Committeeman; William F. Schrier (WA), National Executive Committeeman; Arthur D. Herbison (WI), National Executive Committeeman; Carlos Orria-Medina (PR), National Executive Committeeman; Billy W. Bell (SC), National Executive Committeeman; Jennings B. Loring (TN), National Executive Committeeman; William E. Christoffersen (UT), National Executive Committeeman; Rob R. Gordon, Jr. (VA), National Executive Committeeman; William W. Kile (WV), National Executive Committeeman; _____, for Irvin A. Quick (WY), National Executive Committeeman.

Mr. Speaker, on that same day, the commander in chief of the Veterans of Foreign Wars, General Lisicki, also urged Speaker PELOSI and the Democrat leadership to put partisanship aside for the benefit of our Nation's veterans and troops. These pleas from the American Legion and the VFW fall on the heels of multiple requests from Republican Members of this House to both Speaker PELOSI and Democrat Majority Leader Senator REID, urging them to end their PR campaign and begin conference work on the Veterans appropriations bill.

Unfortunately, it appears as though all of these commonsense requests have fallen on deaf ears and our Nation's veterans are being forced to pay the price for continued Democrat partisanship and lack of leadership on this issue.

Mr. Speaker, I include for the CONGRESSIONAL RECORD these two letters so everyone watching today's debate across the country can see the efforts that have been made by the Republican Party to end this impasse on the important issue of providing adequate funding for those who have sacrificed so much on behalf of the country.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 17, 2007.

OFFICE OF THE SPEAKER,
U.S. Capitol,
Washington, DC.

MADAM SPEAKER: We write to urge you in the strongest possible terms to reach a prompt agreement on the conference report on the FY2008 Military Construction and Veterans Affairs Appropriations Act (H.R. 2642). Few issues are more important than adequate funding for our Nation's veterans. The leadership in the House cannot allow this critically important funding to fall victim to the usual partisan wrangling which occurs all too often in Washington.

Veterans should not be used as tools for political bargaining and gamesmanship. Both the House and Senate passed the FY08 MilCon-Veterans appropriations with overwhelming majorities because our commitment to veterans rises above partisan squabbling. Tragedies such as the recent revelations at Walter Reed Army Medical Center must never be repeated. The findings of insufficient care at Walter Reed and other facilities should be seen by Congress as a mandate to finish the work and live up to the promises we have made to our veterans.

After decades of flat funding, total VA budget rose from $48 billion in FY 2001 to approximately $70 billion in FY 2006, a 46 percent increase. This year, the House voted to increase funding by $6 billion over FY07, one of the largest in the 77 year history of the Department of Veterans Affairs. Both the Senate and House versions received overwhelming majority support passing by a vote of 409–2 in the House and 92–1 in the Senate.

Earlier in the year, the new Majority agreed they would continue the trend of significant increases in veterans funding begun by the Republican Congress. We ask you to honor that agreement and see that the commitment we made to our veterans is honored.

We must never forget the sacrifice of our veterans. As members of Congress, we have a solemn obligation to fulfill our promises to them. We ask for you to look past the heightened partisanship of our times and unite us on this issue by making it a first priority to quickly bring a stand alone Veterans appropriations bill through conference so the Congress may present the President with a bill by October 1, 2007.

We stand ready to assist you in reaching this goal.

Sincerely,

Stevan Pearce; Steve Buyer; Don Young; Greg Walden; Marilyn N. Musgrave; Ron Lewis; Jim Saxton; ———; Thomas Price; Tim Walberg; Mary Fallin; John Kline; Ginny Brown-Waite; David Obey; Tom Tancredo; John L. Mica; Mark Souder; Louie Gohmert; Rick Renzi; Mario Diaz-Balart; Jean Schmidt; Gus M. Bilirakis; Adrian Smith; Pete Sessions; Paul Ryan; Dana Rohrabacher; Spencer Bachus; K. Michael Conaway; Tom Feeney; J. Randy Forbes; Jon C. Porter; John Shimkus; Jim Gerlach; Mike Ferguson; Mary Bono; Dean Heller; Jeff Miller; Sue Myrick; Geoff Davis; Thelma Drake; Steve King; Jeb Hensarling; Barbara Cubin; Scott Garrett.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 4, 2007.

OFFICE OF THE SENATE MAJORITY LEADER,
U.S. Capitol,
Washington, DC.

DEAR MAJORITY LEADER REID: We write today to ask you to keep the Senate in session the week of October 8, to help pass this years' veterans appropriations. Now that we are already into the new fiscal year, it is imperative that the House and Senate reach a prompt agreement on the conference report on the FY2008 Military Construction and Veterans Affairs Appropriations Act (H.R. 2642).

It is unfortunate the Senate has been unable to act upon many of its Constitutionally mandated appropriations bills. While the House continues to wait upon the Senate to complete its work, we call upon you to quickly move veterans appropriations through conference so a final version of the bill may be passed and presented to the President. We believe that veterans issues rise above the partisan divisions of Washington which is evident by the passage of the FY08 MilCon-Veterans appropriations with overwhelming majorities in both Houses, 501–3 combined.

The Senate cannot allow this critically important funding to continue to fall victim to the usual partisan wrangling which occurs all too often in Washington. If tragedies such as the recent revelations at Walter Reed Army Medical Center are to be diverted in the future, we must pass veterans funding now. From FY 2001 the total VA budget rose from $48 billion to approximately $70 billion in FY 2006, a 46 percent increase. This year, the House voted to increase funding by $6 billion dollars over FY07, one of the largest in the 77 year history of the Department of Veterans Affairs. Because we have asked so much of our brave men and women in uniform during the War on Terror we must uphold our commitment to veterans upon their return home.

Earlier in the year, the new Majority agreed they would continue the trend of significant increases in veterans funding begun by the Republican Congress. We ask you to honor that agreement and see the commitment we made to our veterans is upheld.

We must never forget the sacrifice of our veterans. As members of Congress, we have a solemn obligation to fulfill our promises to them. We ask you to look past the heightened partisanship of our times and unite us on this issue by making it a first priority to bring a stand-alone veterans appropriations bill through conference so the Congress may present the President with a bill no later than October 12, 2007.

Sincerely,

Stevan Pearce; Duncan Hunter; Don Young; Jim Sensenbrenner; Wally Herger; Jim Saxton; John Kline; Geoff Davis; Tom Tancredo; Louie Gohmert; Ginny Brown-Waite; Doug Lamborn; Darrell Issa; John T. Doolittle; Lincoln Diaz-Balart; Jeff Miller; Scott Garrett; Paul Ryan; Adrian Smith; K. Michael Conaway; Michele Bachmann; Tim Welberg; Jean Schmidt; Dan Burton; Phil English; Randy Kuhl; Greg Walden; Jo Ann Davis; Jim Moran; Thomas Price; John R. Carter; Tom Feeney;

Phil Gingrey; Vito Fossella; Gary G. Miller; Jim Gerlach; Jeb Hensarling; Pete Sessions; Mark Souder; Randy Neugebauer; John E. Peterson; Trent Franks; Gus M. Bilirakis; Wayne T. Gilchrest; Timothy H. Bishop; Michael T. McCaul; Thelma Drake.

I ask all of my colleagues to vote against the previous question so we can put partisanship aside and move this important legislation forward.

Mr. Speaker, I ask unanimous consent to have the text of the amendment and extraneous material appear in the RECORD just prior to the vote on the previous question.

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

There was no objection.

Mr. HASTINGS of Washington. With that, I yield back the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, this bill is about the right to live. It is about empowering Native Hawaiians to own their destiny and choose how to manage their livelihood. This bill is not about gaming. In fact, it expressly is prohibited in this bill.

Instead, the bill is about providing an opportunity to effectively reorganize the Native Hawaiian government to better meet the needs of Native Hawaiians.

The underlying legislation enjoys the support of Hawaii's Republican Governor Linda Lingle, the business community in Hawaii, the National Congress of American Indians, the Alaska Federation of Natives, and Hawaii's entire congressional delegation.

Mr. Speaker, the Native Hawaiian Government Reorganization Act has received immense bipartisan support year after year. It is now time that we fulfill the duty of this Congress and serve Native Hawaiians just as they have served and contributed to the vibrant and diverse culture that is America.

I urge a ''yes'' vote on the rule, the previous question, and on final passage of the bill.

The material previously referred to by Mr. HASTINGS of Washington is as follows:

AMENDMENT TO H. RES. 764 OFFERED BY MR. HASTINGS OF WASHINGTON

At the end of the resolution, add the following:

SEC. 3. The House disagrees to the Senate amendment to the bill, H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes, and agrees to the conference requested by the Senate thereon. The Speaker shall appoint conferees immediately, but may declare a recess under clause 12(a) of rule I for the purpose of consulting the Minority Leader prior to such appointment. The motion to instruct conferees otherwise in order pending the appointment of conferees instead shall be in order only at a time designated by the Speaker in the legislative schedule within two additional legislative days after adoption of this resolution.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Democratic majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution—[and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's ''American Congressional Dictionary'': ''If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.''

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

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

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

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

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 218, nays 175, not voting 39, as follows:

[Roll No. 997]

YEAS—218

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Pearce
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Woolsey
Wu
Yarmuth

NAYS—175

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Biggert
Bilirakis
Bishop (UT)
Blunt
Boehner
Bonner
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Davis (KY)
Davis, David
Deal (GA)
Dent
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Inglis (SC)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pence
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—39

Barton (TX)
Bilbray
Blackburn
Bono
Buyer
Carson
Cooper
Culberson
Davis (CA)
Davis, Tom
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Forbes
Garrett (NJ)
Giffords
Hastert
Holt
Hunter
Issa
Jindal
Johnson, E. B.
Kirk
Lamborn
Lewis (CA)
Mack
Mahoney (FL)
McCotter
Payne
Peterson (PA)
Reyes
Ros-Lehtinen
Roskam
Shea-Porter
Smith (NJ)
Wasserman Schultz
Wilson (OH)
Wynn
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1301

Mr. BUCHANAN changed his vote from ''yea'' to ''nay.''

Ms. VELÁZQUEZ changed her vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

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

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 217, noes 179, not voting 36, as follows:

[Roll No. 998]

AYES—217

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Gillibrand
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Sherman
Shuler
Sires
Skelton
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Woolsey
Wu
Yarmuth

NOES—179

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Biggert
Bilirakis
Bishop (UT)
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Davis (KY)
Davis, David
Deal (GA)
Dent
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Inglis (SC)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—36

Barton (TX)
Bilbray
Blackburn
Buyer
Carson
Cooper
Culberson
Davis (CA)
Davis, Tom
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Forbes
Garrett (NJ)
Giffords
Hastert
Hunter
Issa
Jindal
Johnson, E. B.
Kirk
Lewis (CA)
Mahoney (FL)
McCotter
Payne
Peterson (PA)
Reyes
Ros-Lehtinen
Roskam
Shea-Porter
Slaughter
Smith (NJ)
Wasserman Schultz
Wilson (OH)
Wynn
Young (AK)

□ 1311

Mr. SHAYS and Mr. HERGER changed their vote from ''aye'' to ''no.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1483, CELEBRATING AMERICA'S HERITAGE ACT

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of H.R. 1483, to include corrections in spelling, punctuation, section numbering and

cross-referencing, and the insertion of appropriate headings.

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

There was no objection.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2007

Mr. RAHALL. Mr. Speaker, pursuant to House Resolution 764, I call up the bill (H.R. 505) to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 764, the bill is considered read.

The text of the bill is as follows:

H.R. 505

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 ''Native Hawaiian Government Reorganization Act of 2007''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States;

(2) Native Hawaiians, the native people of the Hawaiian archipelago that is now part of the United States, are indigenous, native people of the United States;

(3) the United States has a special political and legal relationship to promote the welfare of the native people of the United States, including Native Hawaiians;

(4) under the treaty making power of the United States, Congress exercised its constitutional authority to confirm treaties between the United States and the Kingdom of Hawaii, and from 1826 until 1893, the United States—

(A) recognized the sovereignty of the Kingdom of Hawaii;

(B) accorded full diplomatic recognition to the Kingdom of Hawaii; and

(C) entered into treaties and conventions with the Kingdom of Hawaii to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

(5) pursuant to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside approximately 203,500 acres of land to address the conditions of Native Hawaiians in the Federal territory that later became the State of Hawaii;

(6) by setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Hawaiian Homes Commission Act assists the members of the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii;

(7) approximately 6,800 Native Hawaiian families reside on the Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Hawaiian Home Lands are on a waiting list to receive assignments of Hawaiian Home Lands;

(8)(A) in 1959, as part of the compact with the United States admitting Hawaii into the Union, Congress established a public trust (commonly known as the ''ceded lands trust''), for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians;

(B) the public trust consists of lands, including submerged lands, natural resources, and the revenues derived from the lands; and

(C) the assets of this public trust have never been completely inventoried or segregated;

(9) Native Hawaiians have continuously sought access to the ceded lands in order to establish and maintain native settlements and distinct native communities throughout the State;

(10) the Hawaiian Home Lands and other ceded lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival and economic self-sufficiency of the Native Hawaiian people;

(11) Native Hawaiians continue to maintain other distinctly native areas in Hawaii;

(12) on November 23, 1993, Public Law 103–150 (107 Stat. 1510) (commonly known as the ''Apology Resolution'') was enacted into law, extending an apology on behalf of the United States to the native people of Hawaii for the United States' role in the overthrow of the Kingdom of Hawaii;

(13) the Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished to the United States their claims to their inherent sovereignty as a people over their national lands, either through the Kingdom of Hawaii or through a plebiscite or referendum;

(14) the Apology Resolution expresses the commitment of Congress and the President—

(A) to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii;

(B) to support reconciliation efforts between the United States and Native Hawaiians; and

(C) to consult with Native Hawaiians on the reconciliation process as called for in the Apology Resolution;

(15) despite the overthrow of the government of the Kingdom of Hawaii, Native Hawaiians have continued to maintain their separate identity as a single distinct native community through cultural, social, and political institutions, and to give expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency;

(16) Native Hawaiians have also given expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency—

(A) through the provision of governmental services to Native Hawaiians, including the provision of—

(i) health care services;

(ii) educational programs;

(iii) employment and training programs;

(iv) economic development assistance programs;

(v) children's services;

(vi) conservation programs;

(vii) fish and wildlife protection;

(viii) agricultural programs;

(ix) native language immersion programs;

(x) native language immersion schools from kindergarten through high school;

(xi) college and master's degree programs in native language immersion instruction; and

(xii) traditional justice programs, and

(B) by continuing their efforts to enhance Native Hawaiian self-determination and local control;

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources;

(18) the Native Hawaiian people wish to preserve, develop, and transmit to future generations of Native Hawaiians their lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, to control and manage their own lands, including ceded lands, and to achieve greater self-determination over their own affairs;

(19) this Act provides a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct, indigenous, native community to reorganize a single Native Hawaiian governing entity for the purpose of giving expression to their rights as native people to self-determination and self-governance;

(20) Congress—

(A) has declared that the United States has a special political and legal relationship for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) has identified Native Hawaiians as a distinct group of indigenous, native people of the United States within the scope of its authority under the Constitution, and has enacted scores of statutes on their behalf; and

(C) has delegated broad authority to the State of Hawaii to administer some of the United States' responsibilities as they relate to the Native Hawaiian people and their lands;

(21) the United States has recognized and reaffirmed the special political and legal relationship with the Native Hawaiian people through the enactment of the Act entitled, ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4), by—

(A) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held as a public trust for 5 purposes, 1 of which is for the betterment of the conditions of Native Hawaiians; and

(B) transferring the United States' responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the exclusive right of the United States to consent to any actions affecting the lands included in the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act;

(22) the United States has continually recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, indigenous, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the indigenous, native people of a once-sovereign nation with whom the United States has a special political and legal relationship; and

(D) the special relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States; and

(23) the State of Hawaii supports the reaffirmation of the special political and legal relationship between the Native Hawaiian governing entity and the United States as

evidenced by 2 unanimous resolutions enacted by the Hawaii State Legislature in the 2000 and 2001 sessions of the Legislature and by the testimony of the Governor of the State of Hawaii before the Committee on Indian Affairs of the Senate on February 25, 2003, and March 1, 2005.

SEC. 3. DEFINITIONS.

In this Act:

(1) ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.—The term ''aboriginal, indigenous, native people'' means people whom Congress has recognized as the original inhabitants of the lands that later became part of the United States and who exercised sovereignty in the areas that later became part of the United States.

(2) ADULT MEMBER.—The term ''adult member'' means a Native Hawaiian who has attained the age of 18 and who elects to participate in the reorganization of the Native Hawaiian governing entity.

(3) APOLOGY RESOLUTION.—The term ''Apology Resolution'' means Public Law 103–150 (107 Stat. 1510), a Joint Resolution extending an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893, overthrow of the Kingdom of Hawaii.

(4) COMMISSION.—The term ''commission'' means the Commission established under section 7(b) to provide for the certification that those adult members of the Native Hawaiian community listed on the roll meet the definition of Native Hawaiian set forth in paragraph (10).

(5) COUNCIL.—The term ''council'' means the Native Hawaiian Interim Governing Council established under section 7(c)(2).

(6) INDIAN PROGRAM OR SERVICE.—

(A) IN GENERAL.—The term ''Indian program or service'' means any federally funded or authorized program or service provided to an Indian tribe (or member of an Indian tribe) because of the status of the members of the Indian tribe as Indians.

(B) INCLUSIONS.—The term ''Indian program or service'' includes a program or service provided by the Bureau of Indian Affairs, the Indian Health Service, or any other Federal agency.

(7) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) INDIGENOUS, NATIVE PEOPLE.—The term ''indigenous, native people'' means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(9) INTERAGENCY COORDINATING GROUP.—The term ''Interagency Coordinating Group'' means the Native Hawaiian Interagency Coordinating Group established under section 6.

(10) NATIVE HAWAIIAN.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of establishing the roll authorized under section 7(c)(1) and before the reaffirmation of the special political and legal relationship between the United States and the Native Hawaiian governing entity, the term ''Native Hawaiian'' means—

(i) an individual who is 1 of the indigenous, native people of Hawaii and who is a direct lineal descendant of the aboriginal, indigenous, native people who—

(I) resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and

(II) occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii; or

(ii) an individual who is 1 of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or a direct lineal descendant of that individual.

(B) NO EFFECT ON OTHER DEFINITIONS.—Nothing in this paragraph affects the definition of the term ''Native Hawaiian'' under any other Federal or State law (including a regulation).

(11) NATIVE HAWAIIAN GOVERNING ENTITY.—The term ''Native Hawaiian Governing Entity'' means the governing entity organized by the Native Hawaiian people pursuant to this Act.

(12) NATIVE HAWAIIAN PROGRAM OR SERVICE.—The term ''Native Hawaiian program or service'' means any program or service provided to Native Hawaiians because of their status as Native Hawaiians.

(13) OFFICE.—The term ''Office'' means the United States Office for Native Hawaiian Relations established by section 5(a).

(14) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(15) SPECIAL POLITICAL AND LEGAL RELATIONSHIP.—The term ''special political and legal relationship'' shall refer, except where differences are specifically indicated elsewhere in the Act, to the type of and nature of relationship the United States has with the several federally recognized Indian tribes.

SEC. 4. UNITED STATES POLICY AND PURPOSE.

(a) POLICY.—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct, indigenous, native people with whom the United States has a special political and legal relationship;

(2) the United States has a special political and legal relationship with the Native Hawaiian people which includes promoting the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution, including but not limited to Article I, section 8, clause 3, to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3, 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian governing entity; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) PURPOSE.—The purpose of this Act is to provide a process for the reorganization of the single Native Hawaiian governing entity and the reaffirmation of the special political and legal relationship between the United States and that Native Hawaiian governing entity for purposes of continuing a government-to-government relationship.

SEC. 5. UNITED STATES OFFICE FOR NATIVE HAWAIIAN RELATIONS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary, the United States Office for Native Hawaiian Relations.

(b) DUTIES.—The Office shall—

(1) continue the process of reconciliation with the Native Hawaiian people in furtherance of the Apology Resolution;

(2) upon the reaffirmation of the special political and legal relationship between the single Native Hawaiian governing entity and the United States, effectuate and coordinate the special political and legal relationship between the Native Hawaiian governing entity and the United States through the Secretary, and with all other Federal agencies;

(3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian governing entity by providing timely notice to, and consulting with, the Native Hawaiian people and the Native Hawaiian governing entity before taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Interagency Coordinating Group, other Federal agencies, and the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands; and

(5) prepare and submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives an annual report detailing the activities of the Interagency Coordinating Group that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian governing entity and providing recommendations for any necessary changes to Federal law or regulations promulgated under the authority of Federal law.

(c) APPLICABILITY TO DEPARTMENT OF DEFENSE.—This section shall have no applicability to the Department of Defense or to any agency or component of the Department of Defense, but the Secretary of Defense may designate 1 or more officials as liaison to the Office.

SEC. 6. NATIVE HAWAIIAN INTERAGENCY COORDINATING GROUP.

(a) ESTABLISHMENT.—In recognition that Federal programs authorized to address the conditions of Native Hawaiians are largely administered by Federal agencies other than the Department of the Interior, there is established an interagency coordinating group to be known as the ''Native Hawaiian Interagency Coordinating Group''.

(b) COMPOSITION.—The Interagency Coordinating Group shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that administers Native Hawaiian programs, establishes or implements policies that affect Native Hawaiians, or whose actions may significantly or uniquely impact Native Hawaiian resources, rights, or lands; and

(2) the Office.

(c) LEAD AGENCY.—

(1) IN GENERAL.—The Department of the Interior shall serve as the lead agency of the Interagency Coordinating Group.

(2) MEETINGS.—The Secretary shall convene meetings of the Interagency Coordinating Group.

(d) DUTIES.—The Interagency Coordinating Group shall—

(1) coordinate Federal programs and policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government that may significantly or uniquely affect Native Hawaiian resources, rights, or lands;

(2) consult with the Native Hawaiian governing entity, through the coordination referred to in section 6(d)(1), but the consultation obligation established in this provision shall apply only after the satisfaction of all of the conditions referred to in section 7(c)(6); and

(3) ensure the participation of each Federal agency in the development of the report to Congress authorized in section 5(b)(5).

(e) APPLICABILITY TO DEPARTMENT OF DEFENSE.—This section shall have no applicability to the Department of Defense or to

any agency or component of the Department of Defense, but the Secretary of Defense may designate 1 or more officials as liaison to the Interagency Coordinating Group.

SEC. 7. PROCESS FOR THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY AND THE REAFFIRMATION OF THE SPECIAL POLITICAL AND LEGAL RELATIONSHIP BETWEEN THE UNITED STATES AND THE NATIVE HAWAIIAN GOVERNING ENTITY.

(a) RECOGNITION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.—The right of the Native Hawaiian people to reorganize the single Native Hawaiian governing entity to provide for their common welfare and to adopt appropriate organic governing documents is recognized by the United States.

(b) COMMISSION.—

(1) IN GENERAL.—There is authorized to be established a Commission to be composed of 9 members for the purposes of—

(A) preparing and maintaining a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the single Native Hawaiian governing entity; and

(B) certifying that the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(10).

(2) MEMBERSHIP.—

(A) APPOINTMENT.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall appoint the members of the Commission in accordance with subparagraph (B).

(ii) CONSIDERATION.—In making an appointment under clause (i), the Secretary may take into consideration a recommendation made by any Native Hawaiian organization.

(B) REQUIREMENTS.—Each member of the Commission shall demonstrate, as determined by the Secretary—

(i) not less than 10 years of experience in the study and determination of Native Hawaiian genealogy; and

(ii) an ability to read and translate into English documents written in the Hawaiian language.

(C) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment.

(3) EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(4) DUTIES.—The Commission shall—

(A) prepare and maintain a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity; and

(B) certify that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10).

(5) STAFF.—

(A) IN GENERAL.—The Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(6) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(7) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(8) EXPIRATION.—The Secretary shall dissolve the Commission upon the reaffirmation of the special political and legal relationship between the Native Hawaiian governing entity and the United States.

(c) PROCESS FOR THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.—

(1) ROLL.—

(A) CONTENTS.—The roll shall include the names of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity and are certified to be Native Hawaiian as defined in section 3(10) by the Commission.

(B) FORMATION OF ROLL.—Each adult member of the Native Hawaiian community who elects to participate in the reorganization of the Native Hawaiian governing entity shall submit to the Commission documentation in the form established by the Commission that is sufficient to enable the Commission to determine whether the individual meets the definition of Native Hawaiian in section 3(10).

(C) DOCUMENTATION.—The Commission shall—

(i) identify the types of documentation that may be submitted to the Commission that would enable the Commission to determine whether an individual meets the definition of Native Hawaiian in section 3(10);

(ii) establish a standard format for the submission of documentation; and

(iii) publish information related to clauses (i) and (ii) in the Federal Register.

(D) CONSULTATION.—In making determinations that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10), the Commission may consult with Native Hawaiian organizations, agencies of the State of Hawaii including but not limited to the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the State Department of Health, and other entities with expertise and experience in the determination of Native Hawaiian ancestry and lineal descendancy.

(E) CERTIFICATION AND SUBMITTAL OF ROLL TO SECRETARY.—The Commission shall—

(i) submit the roll containing the names of the adult members of the Native Hawaiian community who meet the definition of Native Hawaiian in section 3(10) to the Secretary within two years from the date on which the Commission is fully composed; and

(ii) certify to the Secretary that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10).

(F) PUBLICATION.—Upon certification by the Commission to the Secretary that those listed on the roll meet the definition of Native Hawaiian in section 3(10), the Secretary shall publish the roll in the Federal Register.

(G) APPEAL.—The Secretary may establish a mechanism for an appeal for any person whose name is excluded from the roll who claims to meet the definition of Native Hawaiian in section 3(10) and to be 18 years of age or older.

(H) PUBLICATION; UPDATE.—The Secretary shall—

(i) publish the roll regardless of whether appeals are pending;

(ii) update the roll and the publication of the roll on the final disposition of any appeal; and

(iii) update the roll to include any Native Hawaiian who has attained the age of 18 and who has been certified by the Commission as meeting the definition of Native Hawaiian in section 3(10) after the initial publication of the roll or after any subsequent publications of the roll.

(I) FAILURE TO ACT.—If the Secretary fails to publish the roll, not later than 90 days after the date on which the roll is submitted to the Secretary, the Commission shall publish the roll notwithstanding any order or directive issued by the Secretary or any other official of the Department of the Interior to the contrary.

(J) EFFECT OF PUBLICATION.—The publication of the initial and updated roll shall serve as the basis for the eligibility of adult members of the Native Hawaiian community whose names are listed on those rolls to participate in the reorganization of the Native Hawaiian governing entity.

(2) ORGANIZATION OF THE NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—

(A) ORGANIZATION.—The adult members of the Native Hawaiian community listed on the roll published under this section may—

(i) develop criteria for candidates to be elected to serve on the Native Hawaiian Interim Governing Council;

(ii) determine the structure of the Council; and

(iii) elect members from individuals listed on the roll published under this subsection to the Council.

(B) POWERS.—

(i) IN GENERAL.—The Council—

(I) may represent those listed on the roll published under this section in the implementation of this Act; and

(II) shall have no powers other than powers given to the Council under this Act.

(ii) FUNDING.—The Council may enter into a contract with, or obtain a grant from, any Federal or State agency to carry out clause (iii).

(iii) ACTIVITIES.—

(I) IN GENERAL.—The Council may conduct a referendum among the adult members of the Native Hawaiian community listed on the roll published under this subsection for the purpose of determining the proposed elements of the organic governing documents of the Native Hawaiian governing entity, including but not limited to—

(aa) the proposed criteria for citizenship of the Native Hawaiian governing entity;

(bb) the proposed powers and authorities to be exercised by the Native Hawaiian governing entity, as well as the proposed privileges and immunities of the Native Hawaiian governing entity;

(cc) the proposed civil rights and protection of the rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities of the Native Hawaiian governing entity; and

(dd) other issues determined appropriate by the Council.

(II) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based on the referendum, the Council may develop proposed organic governing documents for the Native Hawaiian governing entity.

(III) DISTRIBUTION.—The Council may distribute to all adult members of the Native Hawaiian community listed on the roll published under this subsection—

(aa) a copy of the proposed organic governing documents, as drafted by the Council; and

(bb) a brief impartial description of the proposed organic governing documents;

(IV) ELECTIONS.—The Council may hold elections for the purpose of ratifying the proposed organic governing documents, and on certification of the organic governing documents by the Secretary in accordance with paragraph (4), hold elections of the officers of the Native Hawaiian governing entity pursuant to paragraph (5).

(3) SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.—Following the reorganization of the Native Hawaiian governing entity and the adoption of organic governing documents, the Council shall submit the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(4) CERTIFICATIONS.—

(A) IN GENERAL.—Within the context of the future negotiations to be conducted under the authority of section 8(b)(1), and the subsequent actions by the Congress and the State of Hawaii to enact legislation to implement the agreements of the 3 governments, not later than 90 days after the date on which the Council submits the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) establish the criteria for citizenship in the Native Hawaiian governing entity;

(ii) were adopted by a majority vote of the adult members of the Native Hawaiian community whose names are listed on the roll published by the Secretary;

(iii) provide authority for the Native Hawaiian governing entity to negotiate with Federal, State, and local governments, and other entities;

(iv) provide for the exercise of governmental authorities by the Native Hawaiian governing entity, including any authorities that may be delegated to the Native Hawaiian governing entity by the United States and the State of Hawaii following negotiations authorized in section 8(b)(1) and the enactment of legislation to implement the agreements of the 3 governments;

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian governing entity without the consent of the Native Hawaiian governing entity;

(vi) provide for the protection of the civil rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities by the Native Hawaiian governing entity; and

(vii) are consistent with applicable Federal law and the special political and legal relationship between the United States and the indigenous, native people of the United States; provided that the provisions of Public Law 103–454, 25 U.S.C. 479a, shall not apply.

(B) RESUBMISSION IN CASE OF NONCOMPLIANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (A).—

(i) RESUBMISSION BY THE SECRETARY.—If the Secretary determines that the organic governing documents, or any part of the documents, do not meet all of the requirements set forth in subparagraph (A), the Secretary shall resubmit the organic governing documents to the Council, along with a justification for each of the Secretary's findings as to why the provisions are not in full compliance.

(ii) AMENDMENT AND RESUBMISSION OF ORGANIC GOVERNING DOCUMENTS.—If the organic governing documents are resubmitted to the Council by the Secretary under clause (i), the Council shall—

(I) amend the organic governing documents to ensure that the documents meet all the requirements set forth in subparagraph (A); and

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with this paragraph.

(C) CERTIFICATIONS DEEMED MADE.—The certifications under paragraph (4) shall be deemed to have been made if the Secretary has not acted within 90 days after the date on which the Council has submitted the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(5) ELECTIONS.—On completion of the certifications by the Secretary under paragraph (4), the Council may hold elections of the officers of the Native Hawaiian governing entity.

(6) REAFFIRMATION.—Notwithstanding any other provision of law, upon the certifications required under paragraph (4) and the election of the officers of the Native Hawaiian governing entity, the special political and legal relationship between the United States and the Native Hawaiian governing entity is hereby reaffirmed and the United States extends Federal recognition to the Native Hawaiian governing entity as the representative governing body of the Native Hawaiian people.

SEC. 8. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS; CLAIMS.

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii contained in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'' approved March 18, 1959 (Public Law 86–3, 73 Stat. 4), is reaffirmed.

(b) NEGOTIATIONS.—

(1) IN GENERAL.—Upon the reaffirmation of the special political and legal relationship between the United States and the Native Hawaiian governing entity, the United States and the State of Hawaii may enter into negotiations with the Native Hawaiian governing entity designed to lead to an agreement addressing such matters as—

(A) the transfer of lands, natural resources, and other assets, and the protection of existing rights related to such lands or resources;

(B) the exercise of governmental authority over any transferred lands, natural resources, and other assets, including land use;

(C) the exercise of civil and criminal jurisdiction;

(D) the delegation of governmental powers and authorities to the Native Hawaiian governing entity by the United States and the State of Hawaii;

(E) any residual responsibilities of the United States and the State of Hawaii; and

(F) grievances regarding assertions of historical wrongs committed against Native Hawaiians by the United States or by the State of Hawaii.

(2) AMENDMENTS TO EXISTING LAWS.—Upon agreement on any matter or matters negotiated with the United States, the State of Hawaii, and the Native Hawaiian governing entity, the parties are authorized to submit—

(A) to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives, recommendations for proposed amendments to Federal law that will enable the implementation of agreements reached between the 3 governments; and

(B) to the Governor and the legislature of the State of Hawaii, recommendations for proposed amendments to State law that will enable the implementation of agreements reached between the 3 governments.

(3) GOVERNMENTAL AUTHORITY AND POWER.—Any governmental authority or power to be exercised by the Native Hawaiian governing entity which is currently exercised by the State or Federal Governments shall be exercised by the Native Hawaiian governing entity only as agreed to in negotiations pursuant to section 8(b)(1) of this Act and beginning on the date on which legislation to implement such agreement has been enacted by the United States Congress, when applicable, and by the State of Hawaii, when applicable. This includes any required modifications to the Hawaii State Constitution in accordance with the Hawaii Revised Statutes.

(c) CLAIMS.—

(1) DISCLAIMERS.—Nothing in this Act—

(A) creates a cause of action against the United States or any other entity or person;

(B) alters existing law, including existing case law, regarding obligations on the part of the United States or the State of Hawaii with regard to Native Hawaiians or any Native Hawaiian entity;

(C) creates obligations that did not exist in any source of Federal law prior to the date of enactment of this Act; or

(D) establishes authority for the recognition of Native Hawaiian groups other than the single Native Hawaiian Governing Entity.

(2) FEDERAL SOVEREIGN IMMUNITY.—

(A) SPECIFIC PURPOSE.—Nothing in this Act is intended to create or allow to be maintained in any court any potential breach-of-trust actions, land claims, resource-protection or resource-management claims, or similar types of claims brought by or on behalf of Native Hawaiians or the Native Hawaiian governing entity for equitable, monetary, or Administrative Procedure Act-based relief against the United States or the State of Hawaii, whether or not such claims specifically assert an alleged breach of trust, call for an accounting, seek declaratory relief, or seek the recovery of or compensation for lands once held by Native Hawaiians.

(B) ESTABLISHMENT AND RETENTION OF SOVEREIGN IMMUNITY.—To effectuate the ends expressed in section 8(c)(1) and 8(c)(2)(A), and notwithstanding any other provision of Federal law, the United States retains its sovereign immunity to any claim that existed prior to the enactment of this Act (including, but not limited to, any claim based in whole or in part on past events), and which could be brought by Native Hawaiians or any Native Hawaiian governing entity. Nor shall any preexisting waiver of sovereign immunity (including, but not limited to, waivers set forth in chapter 7 of part I of title 5, United States Code, and sections 1505 and 2409a of title 28, United States Code) be applicable to any such claims. This complete retention or reclaiming of sovereign immunity also applies to every claim that might attempt to rely on this Act for support, without regard to the source of law under which any such claim might be asserted.

(C) EFFECT.—It is the general effect of section 8(c)(2)(B) that any claims that may already have accrued and might be brought against the United States, including any claims of the types specifically referred to in section 8(c)(2)(A), along with both claims of a similar nature and claims arising out of the same nucleus of operative facts as could

give rise to claims of the specific types referred to in section 8(c)(2)(A), be rendered nonjusticiable in suits brought by plaintiffs other than the Federal Government.

(3) STATE SOVEREIGNTY IMMUNITY.—

(A) Notwithstanding any other provision of Federal law, the State retains its sovereign immunity, unless waived in accord with State law, to any claim, established under any source of law, regarding Native Hawaiians, that existed prior to the enactment of this Act.

(B) Nothing in this Act shall be construed to constitute an override pursuant to section 5 of the Fourteenth Amendment of State sovereign immunity held under the Eleventh Amendment.

SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS.

(a) INDIAN GAMING REGULATORY ACT.—

(1) The Native Hawaiian governing entity and Native Hawaiians may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

(2) The foregoing prohibition in section 9(a)(1) on the use of Indian Gaming Regulatory Act and inherent authority to game apply regardless of whether gaming by Native Hawaiians or the Native Hawaiian governing entity would be located on land within the State of Hawaii or within any other State or Territory of the United States.

(b) TAKING LAND INTO TRUST.—Notwithstanding any other provision of law, including but not limited to part 151 of title 25, Code of Federal Regulations, the Secretary shall not take land into trust on behalf of individuals or groups claiming to be Native Hawaiian or on behalf of the native Hawaiian governing entity.

(c) REAL PROPERTY TRANSFERS.—The Indian Trade and Intercourse Act (25 U.S.C. 177), does not, has never, and will not apply after enactment to lands or lands transfers present, past, or future, in the State of Hawaii. If despite the expression of this intent herein, a court were to construe the Trade and Intercourse Act to apply to lands or land transfers in Hawaii before the date of enactment of this Act, then any transfer of land or natural resources located within the State of Hawaii prior to the date of enactment of this Act, by or on behalf of the Native Hawaiian people, or individual Native Hawaiians, shall be deemed to have been made in accordance with the Indian Trade and Intercourse Act and any other provision of Federal law that specifically applies to transfers of land or natural resources from, by, or on behalf of an Indian tribe, Native Hawaiians, or Native Hawaiian entities.

(d) SINGLE GOVERNING ENTITY.—This Act will result in the recognition of the single Native Hawaiian governing entity. Additional Native Hawaiian groups shall not be eligible for acknowledgment pursuant to the Federal Acknowledgment Process set forth in part 83 of title 25 of the Code of Federal Regulations or any other administrative acknowledgment or recognition process.

(e) JURISDICTION.—Nothing in this Act alters the civil or criminal jurisdiction of the United States or the State of Hawaii over lands and persons within the State of Hawaii. The status quo of Federal and State jurisdiction can change only as a result of further legislation, if any, enacted after the conclusion, in relevant part, of the negotiation process established in section 8(b).

(f) INDIAN PROGRAMS AND SERVICES.—Notwithstanding section 7(c)(6), because of the eligibility of the Native Hawaiian governing entity and its citizens for Native Hawaiian programs and services in accordance with subsection (g), nothing in this Act provides an authorization for eligibility to participate in any Indian program or service to any individual or entity not otherwise eligible for the program or service under applicable Federal law.

(g) NATIVE HAWAIIAN PROGRAMS AND SERVICES.—The Native Hawaiian governing entity and its citizens shall be eligible for Native Hawaiian programs and services to the extent and in the manner provided by other applicable laws.

SEC. 10. SEVERABILITY.

If any section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections or provisions shall continue in full force and effect.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment printed in House Report 110–404 if offered by the gentleman from Arizona (Mr. FLAKE) or his designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered read, and shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent.

The gentleman from West Virginia (Mr. RAHALL) and the gentleman from Utah (Mr. BISHOP) each will control 30 minutes.

The Chair recognizes the gentleman from West Virginia.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 505.

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

There was no objection.

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

Mr. Speaker, I rise today in strong support of H.R. 505, the Native Hawaiian Government Reorganization Act of 2007. Without the hard work, dogged determination, persistence and leadership of our colleagues from Hawaii, we would not be where we are today on this legislation. Indeed, Mr. NEIL ABERCROMBIE has been at this for many years, and it is because of his dedication to his people that I have also agreed to strongly support this bill. I also want to commend MAZIE HIRONO for her work, and the entire delegation deserves words of praise for their leadership.

This bill has been years in the making and Mr. ABERCROMBIE, in particular, never failed to take every opportunity to educate and encourage the rest of us on the need for this important legislation.

H.R. 505 would establish a process by which the Native Hawaiian governing body would be reorganized and the political and legal relationship with the United States would once again be reaffirmed.

Starting in 1920, Congress began passing legislation specifically for the benefit of Native Hawaiians. To date, over 160 laws have been enacted authorizing Native Hawaiian participation in government programs ranging from housing to the repatriation of Hawaiian bones from our Nation's museums.

Recent court challenges have necessitated the need for this legislation to codify a government-to-government relationship with the indigenous peoples of Hawaii. Simply put, this legislation will finally bring parity to the way the United States relates to Indian tribes, Alaska Natives and Native Hawaiians.

I will tell you a bit about what H.R. 505 does not do:

It does not allow for gaming of any kind. It does not provide for additional land to be transferred to Native Hawaiians. It does not change any current civil or criminal jurisdiction by the State or Federal Government.

□ 1315

It does not provide for any new eligibility for Native Hawaiians into Indian programs.

Mr. Speaker, Congress's authority to address the conditions of the aboriginal indigenous people, regardless of how organized, stems from our United States Constitution. In recognition of this authority, we passed similar legislation in the House under the suspension of the rules during the 106th Congress. My committee, the Committee on Natural Resources, has passed similar legislation three times, each time with overwhelming bipartisan support.

We need to make a clear statement. We need to pass H.R. 505 overwhelmingly, and I would urge all my colleagues to vote ''yea'' on this important bill.

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

Mr. BISHOP of Utah. Mr. Speaker, the gentleman from Alaska (Mr. YOUNG) very much wanted to manage H.R. 505 today, but he is on his way to an annual convention of the Alaska Federation of Natives, something that's very important to him as well as to that particular group. So I have consented to manage this issue, though there are few Members in this House who feel as strongly in favor of H.R. 505 as Mr. YOUNG.

The sponsor of this bill, the gentleman from Hawaii (Mr. ABERCROMBIE) has done something that is very unique in this body. He's written a bill that only affects his own State. Recognizing the Native Hawaiian governing entity does not affect Native American tribes in my State, does not affect the lands or resources in my district. That is something that's becoming very unusual around here. Mr. ABERCROMBIE, you need to be careful, you're almost becoming a Republican.

Congress has already enacted dozens of authorizing laws and appropriations bills for the benefit of Native Hawaiians. This bill does not create a new source of funds, nor does it let Native Hawaiians seek funds through the BIA.

This bill has the support of the Hawaiian delegation, Governor Lingle and the State legislature. Their judgment should be given some respect.

Georgetown Professor Viet Dinh, who was the U.S. Assistant Attorney General for Legal Policy in 2001 to 2003, testified that ''Congress has constitutional authority to enact the Native Hawaiian Government Recognition Act, and to recognize a Native Hawaiian governing entity as a dependent sovereign government within the United States or, in other words, to treat Native Hawaiians just as it treats Native Americans and Alaska Natives.''

Professor Dinh explained that when Congress recognizes Native people, it does so in a political way, not a racial way, and he established two criteria that Congress must deem having met in order to exercise this authority. Basically, one, that people must have a native ancestry on lands that became part of the United States; two, they must be members of a distinct native community. H.R. 505 appears to have passed these two tests.

This bill deserves a fair and open debate in this body, just as the native people who are seeking formal recognition from the government do.

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

Mr. RAHALL. Mr. Speaker, I'm very happy to yield 6 minutes to the main drive behind this legislation, a valued member of our Committee on Natural Resources, the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, I'm very grateful and thank you. I want to thank Mr. BISHOP for his kind remarks. It exemplifies, I think, the kind of relationship we have on the Resources Committee. And I want to repeat that for those who are in their offices, maybe are not here on the floor but in their offices and may be tuning in. I want to emphasize that the tenor of his remarks and the courtesy with which he put it forward, including his sense of humor, which is well recognized in the committee and appreciated, reflects that this legislation is not only bipartisan, it's nonpartisan. That is to say, it's not a Republican issue or a Democratic issue and has never been presented on this floor, through all the different sections of the Congress, from its introduction over the past 7 years and as it has moved through the Congress over past sessions, it has never ever been presented as a partisan issue, Republican or Democrat. And I say ''nonpartisan'' because the committee reflects the full spectrum of the left of the Democratic Party and the right of the Republican Party. Whether you are characterized as a progressive or a conservative, this issue transcends that precisely for what Mr. BISHOP so rightly pointed out.

This bill directly affects and only affects the ceded lands and the Hawaiian homelands and the assets associated with Native Hawaiians in Hawaii. Everybody who's on the Resources Committee and everybody who has dealt with issues that have come before the body as a whole coming out of the Resources Committee understands that there are particular and peculiar instances associated with each Member's district, whether it's salmon runs in the Northwest or whether it's water issues based on treaty obligations in the Southwest, whether it's indigenous people in Alaska or indigenous people in Hawaii. Each area has particular contexts and situations that need to be addressed legislatively. And so what the committee tries to do in a nonpartisan way is address those issues in a very specific manner so that they can be resolved without impinging on any other aspect of constitutional consideration.

Let me point out practically how that happens. For those of you who have visited Hawaii, when you land at the airport, you're landing on what's called ceded land. That ceded land produces revenue. Now, obviously the airport didn't exist back when the Kingdom of Hawaii was overthrown in 1893, and it didn't exist when the United States annexed the Kingdom of Hawaii as a territory of the United States, and that airport as it is configured today did not exist with the advent of statehood. And so what we have now is very, very valuable land producing revenue. And that's what this is all about, 1.8 million acres of ceded land coming in a continuum from the time of the overthrow of the kingdom down to the State of Hawaii today where the ownership of the land, and the benefit's very clearly recognized, including in the Admissions Act of Hawaii to the State of the Union: Public Law 8–3, March 18, 1959, which specifically requires us to address questions of benefiting Native Hawaiians through the lands that have been ceded to them or which were created for them by the Hawaiian Homes Commission Act of 1920. That's what we're dealing with here today.

So we are asking that deference be given to the committee's work, which has been nonpartisan, which has no ideological difficulties associated with it, that deference be given and understanding to what the Admissions Act requires of us.

And I find it ironic that support comes from Mr. YOUNG, Mr. DON YOUNG, as it came from other Republican chairmen. In fact, this was first introduced under Republican chairmen, passed under Republican chairmen. Mr. Hansen of Utah and Mr. Pombo of California and Mr. YOUNG of Alaska, as well as Mr. MILLER and Mr. RAHALL, all have supported this act, as have the committees. Mr. YOUNG is now in Alaska speaking to the Federation of Natives, of Alaskan Natives, because we recognize that there are indigenous people who were not a party to the Constitution when it was formed and first passed but have activities, and in the contemporary context, their lives' affected by how we deal with them. The Constitution requires us as a Member of Congress to be able to do that.

So what is at stake here very, very simply for the Members is that this is enabling legislation. That's all it is. This creates the opportunity for Native Hawaiians to take responsibility for their own actions with regard to the control and administration of their own assets. That is not in dispute. The land boundaries are there. The amount of money that's coming in is not in dispute. What's in dispute is who's going to control those assets. That's what this is about. This gives the opportunity to Native Hawaiians to organize themselves to come back to the Secretary of the Interior, whoever that may be, and to ask the Secretary of the Interior to recognize that governing entity over these assets. If the Secretary of the Interior disagrees with it, they have to go back to the drawing board. This is enabling legislation, and it's enabling legislation that has been put together responsibly by responsible members of the Resources Committee in consultation with one another and with various administrations, and we would ask for your favorable consideration on the floor today.

Mr. BISHOP of Utah. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE of Oklahoma. Mr. Speaker, our decision on Native Hawaiian recognition ought to be governed by two very basic principles: First, the concerns of the people of Hawaii, and second, the established principles of sovereignty of indigenous people under which this Republic has operated for over 200 years.

This bipartisan bill is supported by the Hawaii delegations in both the House and the Senate, which are Democratic, by a Republican Governor for the State of Hawaii, and by the Hawaii State Legislature, which has adopted bipartisan resolutions overwhelmingly in 2000, 2001 and 2005, by the National Congress of American Indians, and by the Alaska Federation of Natives.

Some are concerned that the establishment of a Native Hawaiian governing body is only a Federal issue. I would submit, as has been suggested, it's as much a State question as a national one, and we ought to respect, as conservatives, the wishes of people at the State level.

Despite what some believe or say, this is not about race; this is about the sovereignty of an indigenous people. The Native Hawaiian governing body, having the same characteristics as Native American governments, deserves Federal recognition.

Some sometimes say that Native Hawaiians should not be set apart as a separate category, yet our Congress has passed over 160 statutes addressing the conditions of Native Hawaiians and repeatedly recognizing the United States' political and legal relationship

and trust relationship with Native Hawaiians.

Again, despite what some say, this bill will not allow the Native Hawaiian governing body to establish gaming facilities in the State of Hawaii. It will not limit Federal control of Federal military facilities in Hawaii, and the Native Hawaiian governing body will not drain resources currently allocated to Native American tribes, Alaskan Natives, or threaten their interests in any way. Indeed, as I mentioned earlier, the NCAI actually supports this legislation.

I think fundamentally, as conservatives, we ought to allow the people of Hawaii to manage their own affairs as they see fit. We ought to respect the Constitution that we have, which recognizes the sovereignty of indigenous people. And we ought to support the passage of this very important and long-overdue legislation, H.R. 505.

And in closing, let me just add my congratulations to Mr. ABERCROMBIE, who has labored long and hard for this legislation and has garnered significant bipartisan support, and I look forward to your success today.

Mr. RAHALL. Mr. Speaker, I'm very happy to yield to another Representative from Hawaii, the gentlelady, Ms. MAZIE HIRONO, for 5 minutes.

Ms. HIRONO. Mr. Speaker, I rise today in strong support of H.R. 505, the Native Hawaiian Government Reorganization Act, which begins to provide a measure of justice for the indigenous native people of the Hawaiian Islands. I'd like to take a few moments to share some of the history to show why this bill is so important to all the people of Hawaii.

The Kingdom of Hawaii was overthrown in 1893. Hawaii's last Queen, Lili'uokalani, was deposed by an armed group of businessmen and sugar planters who were American by birth or heritage, with the support of U.S. troops. The Queen agreed to relinquish her throne, under protest, to avoid bloodshed. She believed the United States, with which Hawaii had diplomatic relations, would restore her to the throne. As we now know, despite the objections of President Grover Cleveland, the injustice of the overthrow was allowed to stand and the Republic of Hawaii was established.

A few years later, in 1898, the United States annexed Hawaii. Prior to annexation, a petition drive was organized by Native Hawaiians securing signatures of almost two-thirds of the Native Hawaiian population opposing annexation; 29,000 signatures out of an estimated Native Hawaiian population of 40,000 at that time.

□ 1330

These petitions are now in the National Archives.

The Hawaiian culture was under siege. The Republic of Hawaii prohibited the use of the Hawaiian language in Hawaii schools. Everyday use of the Hawaiian language diminished greatly. Hula, which had been suppressed by the missionaries and then restored by King Kalaukaua a few years before the overthrow, survived but did not thrive. Hawaiians were pressured to assimilate and much was lost.

When Prince Jonah Kuhio Kalaniana'ole was elected to serve as Hawaii's Delegate to Congress, he succeeded in passing the Hawaiian Homes Commission Act of 1920, which set aside some 200,000 acres of land for Native Hawaiians. The reason for the legislation was the landless status of so many Native Hawaiians who were displaced by newcomers and became the most impoverished population in their own land. In recognition of its trust responsibility to our Native Hawaiians, Congress passed the Hawaiian Homes Commission Act, which is still in force.

Hawaii became a State in 1959. Beginning in the late 1960s and early 1970s, a Native Hawaiian cultural rediscovery began in music, hula, language, and other aspects of the culture. This cultural renaissance was inspired by hula masters, kumu hula, who helped bring back ancient and traditional hula; musicians and vocalists, who brought back traditional music sung in the Hawaiian language; and political leaders, who sought to protect Hawaii's sacred places and natural beauty.

This flowering of Hawaiian culture was not met with fear in Hawaii but with joy and celebration and an increased connection with each other. People of all ethnicities in Hawaii respect and honor the Native Hawaiian culture.

In 1978, Hawaii convened a constitutional convention that was designed, in part, to right some of the wrongs done to Native Hawaiians. The constitutional convention created the Office of Hawaiian Affairs, or OHA, so that Native Hawaiians would have some ability to manage their own affairs.

The constitutional convention also laid the groundwork for the return of some Federal lands to Native Hawaiians, including the island of Kaho'olawe, which currently is held in trust for a future Native Hawaiian governing entity. The convention also designated the Hawaiian language, along with English, as the official State language of Hawaii for the first time since the overthrow in 1893.

We can trace the genesis of this bill, embodying the hope of an indigenous people to control their own fate, all the way back to the overthrow of 1893. It has been a long road. I believe how we treat our native indigenous people reflects our values and who we are. Clearly, there is much in the history of our interactions with the native people of what is now the United States that makes us less than proud. But one of the great attributes of America has always been our ability to look objectively at our history, learn from it, and where possible make amends.

Native Hawaiians, like American Indians and Alaska Natives, have an inherent sovereignty based on their status as indigenous, native people. They desire the right to exercise management over their own affairs and land.

Our State motto, which is the same as that of the Kingdom of Hawaii, is ''Ua mau ke ea o ka aina i ka pono,'' which means ''the life of the land is perpetuated in righteousness.'' This is an historic vote and one that helps to perpetuate righteousness by righting an historic wrong.

I ask my colleagues to stand with the people of Hawaii and support this bill.

Mahalo nui loa.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Georgia (Mr. WESTMORELAND).

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

Mr. WESTMORELAND. I thank my friend for yielding.

I feel like Bill Murray in ''Groundhog Day,'' the movie. I've only been in Congress for 3 years, but my respect for Mr. ABERCROMBIE has grown. I try to take experiences with people I have differences with and learn. He is one of the most patient people that I have seen up here, and the fact that he took a big problem and has ate it just a little at a time, I admire that. And I want him to know how much respect I do have for him for his tenaciousness, and I hope I can be just as tenacious with things that are important to my constituents as he has been and also the gentlewoman from Hawaii.

Let me say that from what we have heard today, it reminds me of a story of some gentlemen down in the Okefenokee swamp that were going coon hunting. If you're not familiar with coon hunting, you use dogs and you go at night, typically build a campfire, and you all sit around and talk and gossip and share stories and some other activities sometimes while you're waiting for the dog to tree. One night this old World War I veteran was down there in the Okefenokee, and he had a wooden peg leg. It was pretty cold that night, and the dogs were out running; so he laid down and he got a little too close to the campfire and he burned off about 6 inches of that wooden leg. Well, when the dog started barking and they had really treed the coon, he was the first one up. And he got up, and he said, ''Come on, boys. Old Sam has treed one.'' And he started running off across the field with that one leg about 6 inches shorter. And after two or three steps, he turned around and he said, ''Watch out, boys. There's a hole every other step.''

Well, there are a few holes in this, and I want to try to plug up those holes today as far as what the ability of Congress is able to do and what our Constitution says.

So I rise today to oppose the legislation. I want to try to go into what this bill actually does and how it relates to what I feel like our Constitution says and what the limits of our Congress is.

Every aspect of this bill from its goal to its methods, I think, undermines the

idea that we are one that has come from many people. I think the legislation is divisive and will give a group of U.S. citizens special rights over other citizens based solely on race.

Our Constitution seeks to eliminate racial separation, not promote it. How can we promote equality while separating our people?

Some people here today have characterized this legislation as nothing more than a kind gesture to Native Hawaiians. This is not the case. This bill will not only create a new race-based government but it will allow rights and privileges to Native Hawaiian descendants throughout the United States that their neighbors and friends throughout this country do not enjoy.

The Federal Government today will decide what is best for 20 percent of the Hawaiians who have Native Hawaiian ancestry. The Federal Government should not and cannot create a new Indian tribe for ethnic Hawaiians. Congress does not have this power. The Bush administration has rightly promised to veto the bill if it passes because it will ''discriminate on the basis of race or national origin and further subdivide the American people.''

This attempt to divide America sets a frightening precedent for separating groups of Americans based on racial backgrounds. This bill is irresponsible, I believe, and simply unconstitutional.

My good friend from Oklahoma got up and spoke about that the leaders of the State want this legislation. Well, in 2006 there was a survey done of the Hawaiian people by a nonpartisan grassroots institute of Hawaii that found that 69.89 percent of Hawaii's residents want to vote on a Native Hawaiian government before it is considered at the national level, and 80.16 of Hawaii's residents do not support laws that provide preferences for people groups based on their race; 68.3 percent of residents in the First Congressional District, Mr. ABERCROMBIE's district, want that vote; and 66.95 percent of the entire State opposed the 2006 bill to create a Native Hawaiian government.

DEFINITION OF NATIVE HAWAIIAN

This bill will grant broad governmental powers to Native Hawaiians including all living descendents of the original inhabitants of Hawaii. Geographic, cultural, and political connections are not required.

This bill does not effectively define what it means to be a member of the new Native Hawaiian government. Anyone with one traceable drop of Native Hawaiian blood could claim the same right to this alternate government, regardless of how far removed they are from their ancestors or even what State they live in.

There is nothing in this bill that prohibits this newly organized government entity from including members with Native Hawaiian backgrounds from Arizona or Connecticut. Furthermore, this new government entity will then have to come up with a system for assessing and cataloguing all the people who claim to have Native Hawaiian heritage. This could be more costly and time consuming than anyone today realizes.

The new government will have authority over more than 20 percent of Hawaii's population, and possibly countless more nationwide. And no where in this legislation is there an opportunity for citizens of the state of Hawaii (Native or not) to vote to accept this newly created government. This is a Federal imposition of the worst kind, one in which the citizens who this bill affects most, have little or no say in acceptance or implementation.

In fact, a 2006 survey of the Hawaiian people done by the non-partisan Grassroot Institute of Hawaii found that:

69.89 percent of Hawaii's residents want to vote on a Native Hawaii government before it is considered at the national level.

80.16 percent of Hawaii's residents do not support laws that provide preferences for people groups based on their race.

68.3 percent of residents in the first Congressional District (Rep Neil ABERCROMBIE) want that vote.

66.95 percent of the entire State opposed the 2006 bill to create a Native Hawaiian government.

77.83 percent of Hawaiians would vote for statehood if the vote was held today. (In 1959, 94 percent voted for statehood.)

NATIVE HAWAIIANS ARE A RACIAL GROUP, NOT A TRIBE

The Bureau of Indian Affairs has seven mandatory requirements for tribal recognition. Among other things the tribe must have existed as a tribe since 1900 as documented by the state; existed as a community—including 50% of the group residing together; and possessed governing documents and membership criteria

The Supreme Court's definition of a tribe in Montoya v. United States asserts that a 'tribe' must be a united community under one leadership or government, and inhabiting a particular territory. Former Attorney General Ed Meese emphasizes the distinction between racial groups and tribes, ''If sharing one drop of aboriginal Hawaiian blood makes a tribe, then Chicanos, Latinos, African Americans, and Mexicans could become a tribe if Congress so decrees''.

Meese went on to say that the phrase ''Indian Tribe'' has a fixed and distinct Constitutional meaning that cannot be changed by a simple act of Congress. This definition limits ''tribes'' to preexisting tribes within North America, or their offshoots, that were thought to be ''dependent nations'' at the time of the framing of the Constitution. Such American Indian tribes had to live an independent existence in a separate community, apart from the rest of American society.

By these standards Native Hawaiians would never qualify as a tribe. Hawaii is the most integrated society in the U.S.—there are no Hawaiians living apart from other Americans. All U.S. citizens who reside in Hawaii are equally citizens of Hawaii and the United States and are entitled to enjoy all the privileges and immunities common to other citizens, including protection against discriminatory laws, and racially-discriminatory laws.

Even the U.S. Commission on Civil Rights have objected strongly and consistently to the 'race based' classifications in this legislation. Their report released on May 18, 2006 said that passage of a similar bill would ''discriminate on the basis of race or national origin and further subdivide the American people into subgroups accorded varying decrees of privilege.''

CONSERVATIVE CONCERNS; CONGRESS CAN'T CREATE TRIBES

Congress lacks the power to invent Indian tribes. In U.S. v. Sandoval, the Supreme Court reaffirmed that Congress can recognize existing tribes, but does not have the authority to create them. ''It is not meant by this that Congress may bring a community or body of people within the range of this power by arbitrarily calling them an Indian tribe.''

Congress can only acknowledge groups who have long operated as a tribe with preexisting political structure and who live separately and distinctly from other communities both geographically and culturally. Neither is true of the Native Hawaiians today who live in different States, and under different State laws and systems, and who for years have co-existed in the same communities with non-Native Hawaiians.

COMMUNITY DISTINCTIONS

The fact that Native Hawaiians have lived and currently live in Hawaii in the same communities as non-native Hawaiians will cause many potential problems should this bill become law—in effect creating one set of laws for Native Hawaiians and a potentially drastic different set of laws for non-native Hawaiians living in the same house.

Different codes of law would apply to people differently based on race, even though all Hawaiians now currently live and function in one community, attend the same churches, shop at the same stores and attend the same schools. One business may be exempt from State taxes, State business regulations, and zoning laws while the other one is not. Because of this, the Native Hawaiian Government Reorganization Act could be found in violation of the 14th amendment equal protection clause.

BILL PROVISIONS:

Creation of New Federal Offices: This bill will create a Native Hawaiian Relations Office within the Department of Interior and a new interagency coordinating group to coordinate political and legal relationships between the new tribe and all agencies of the U.S. Federal government.

Formal Negotiations—Government to Government: This legislation would allow for negotiations between the three governments, the United States, the State of Hawaii, and the new Native Hawaiian government. The Native Hawaiian people would be able to negotiate with these governments on the transfer of lands, natural resources, and other assets and the authority over these transferred lands.

The Native Hawaiians could renegotiate the exercise of civil and criminal jurisdiction in their government, possibly changing which laws or even Constitutional rights they will adhere to by having the option of redrawing various jurisdictional lines. This new government will also be able to negotiate on the delegation of powers and authorities they have from the Federal and State government and possible reparations or grievances for historical wrongs committed against Native Hawaiians.

HAWAII CASES—RACE

Rice v. Cayetano—2000: Currently there are more than 150 statutes that confer Federal benefits to the Native Hawaiian people. Rice v. Cayetano put many of these benefits in jeopardy and casts serious doubt on the Constitutionality of this legislation.

The Court hold that the State of Hawaii's limitation on voting for certain posts to only

"Native Hawaiians" contradicted the Fifteenth Amendment because it used ancestry as a substitute for race.

Morton v. Mancari—1974: In this 1974 case, the Court noted there was a large distinction between a racial group consisting of "Indians" and a political group, a federally recognized tribe.

The Court asserted that all government programs that extend benefits according to racial classifications must be "strictly scrutinized" and are presumed invalid under the Equal Protection Clause of the Fourteenth Amendment.

The Hawaiians—pushing for the passage of this bill before us today—seek to provide a process for the United States to recognize Native Hawaiians as a governing tribe that is political in nature. The stated goal of this legislation is to ensure that "Native Hawaiians are treated as a unique and distinct, indigenous, native people with whom the U.S. has a special political and legal relationship."

Mr. RAHALL. Mr. Speaker, I am very happy to yield 5 minutes to another distinguished member of our Natural Resources Committee, the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in strong support of H.R. 505.

First, I want to commend the author of this bill, my good friend and colleague, the gentleman from Hawaii, for his leadership and tireless efforts in bringing this legislation to the floor for consideration. I also want to commend my good friend the gentlewoman from Hawaii (Ms. HIRONO) for her coauthorship of this legislation.

Mr. Speaker, I want to commend the chairman of the committee, the gentleman from West Virginia (Mr. RAHALL); and the senior ranking member, Mr. YOUNG, for their support of this legislation.

This bill is important for many reasons but none more critical than to address the serious needs of the indigenous Native Hawaiians who are the indigenous and aboriginal people who not only inhabited these islands way before Europeans ever arrived, but they are still there, I submit, Mr. Speaker.

In 1893 a great injustice took place. The government of the sovereign nation of Hawaii, then ruled by its Queen Liliokalani, was overthrown by U.S. military forces, which later the President of the United States stated that this overthrow of the Queen's government was done without authorization neither from the President nor from the Congress of the United States. It was not until 1993 that Congress passed a joint resolution to acknowledge and apologize on behalf of the United States on the illegal and unlawful overthrow of the Hawaiian Kingdom in 1893 and for the deprivation of the rights of Native Hawaiians to self-determination.

This is not the first time Congress has shown deference towards the status of the indigenous Native Hawaiians. In the Hawaiian Homes Commission Act of 1921, Congress expressed and reaffirmed the "special" and "trust" relationship between the United States and the Native Hawaiians. Moreover, Congress, in passing the Hawaiian Homes Commission Act of 1921, also recognized Native Hawaiians as "a distinct and unique indigenous people."

This bill sets the institutional framework for the establishment of a relationship between the United States and the indigenous Native Hawaiians just as Congress has done for the indigenous American Indians and the indigenous Native Alaskans.

At this point I want to personally commend the gentleman from Oklahoma for his support of this legislation, not only as the cochair of our Native American Congressional Caucus but certainly as a proud member of the Chickasaw Nation from Oklahoma. I cannot think of a better person who understands and appreciates more the plight and sufferings of his own indigenous people, almost an exact replica of the fate of the indigenous people of Hawaii, the Native Hawaiians. I hope my colleagues in their officers have had a chance to listen to Mr. COLE's eloquent statement that he just shared with us.

Mr. Speaker, I also want to note the particularly strong support of this bill from the senior ranking member of our committee, the gentleman from Alaska (Mr. YOUNG). In my opinion, the gentleman from Alaska is probably the most recognized expert in this Chamber who understands historically how Congress has also accepted Native Alaskans as a "trust responsibility" in the same way that American Indians are treated under the U.S. Constitution.

Mr. Speaker, I submit to my colleagues that this should not be a partisan issue. If there are doubts among our colleagues on the other side of the aisle, I would strongly suggest consultations with the gentlemen from Oklahoma and Alaska.

Mr. Speaker, after 114 years our national government, especially this body, the Congress of the United States, which has plenary authority under the Constitution to deal with issues affecting the rights and general welfare of the indigenous population of our Nation, this bill seeks to correct that remaining group, the indigenous people who inhabited the Hawaiian Islands and later established a sovereign nation and later established treaty relations with other countries, even with our own country.

After the unlawful and illegal overthrow of the Hawaiian Kingdom, the status of the indigenous people of the Hawaiian Kingdom was never properly addressed by the Congress of the United States. Mr. Speaker, Congress has properly determined that American Indians of the lower 48 States are an indigenous people. We have also declared Native Alaskans as an indigenous people. The only remaining group to be recognized are the indigenous people of the State of Hawaii, some 400,000 Native Hawaiians.

Mr. Speaker, this bill is not based upon race. It is a bill to establish a reconciliation process by giving the indigenous Native Hawaiians the same status as we have done for the indigenous American Indians and the indigenous Native Alaskans.

I respectfully urge my colleagues to support this bill.

□ 1345

Mr. RAHALL. Mr. Speaker, I yield 1½ minutes to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. I want to thank my friend, Mr. WESTMORELAND, for his kind compliments that came my way. I knew something would follow on that, and of course it was his reservations about the bill.

But he cited a poll which seemed to indicate, I believe he said, that people were obviously against race-based legislation and so on. I don't blame them; I would think they would be. I'm surprised it wasn't 100 percent. But let me read what the question was. He didn't read us the question. Here's the question: "If 505 would allow Native Hawaiians to create their own government not subject to all the same laws, regulations and taxes that apply to other citizens of Hawaii, do you want Congress to approve this bill?" Well, I'm dumbfounded they couldn't get 100 percent against that question. And, of course, 505 doesn't do any of that; quite the opposite. As Mr. RAHALL indicated, we specifically address those issues, and taxes, of course, are going to be paid.

Let me give you the Ward Research Poll, done this year, that is a real poll, and I will tell you the question: "Have you heard of the bill, the Akaka bill?" Yes, 84 percent. "Do you think Hawaiians should be recognized by the U.S. as an indigenous group similar to recognition given American Indians and Native Alaskans?" Yes, 70 percent. "Do you believe Hawaiians have a right to make these decisions?" Yes, 87 percent. "Do you believe programs that have been passed by the Congress for Native Hawaiians should continue?" Yes, 83 percent. This goes on and on at that kind of level in Hawaii.

So, I appreciate my good friend bringing up the question of polling, but I think it's useful for us to know that when the people of Hawaii are polled on an objective basis, there is overwhelming support, Republican and Democrat and independent, for resolving this issue in the manner in which 505 addresses.

Mr. BISHOP of Utah. Mr. Speaker, I yield as much time as he may consume to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. I thank the gentleman for yielding.

I have an amendment that has been made in order which I plan to offer later.

When I came on the floor yesterday, I was approached by several Members who pointed out that my amendment was, perhaps, overly broad. I went back to the office and took a look, and I

happen to agree, it is. And it might confuse people. Because in my original amendment I said nothing in the action will relieve any sovereign entity within the jurisdiction of the United States, including the Native Hawaiian governing authority, from complying with the equal protection clause of the 14th amendment of the United States Constitution.

And so I would like to see if the proponents of the measure would agree to a unanimous consent request to narrow the amendment so that it would simply apply only to the Native Hawaiian governing authority, as opposed to the Native American or any sovereign entity within the United States.

I would yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Well, I regret to say that I don't have the revised language in front of me. And I understand the intent of the first amendment. Mr. FLAKE knows that I supported the opportunity for him to put that forward for discussion before the Rules Committee. But I'm sorry, I can't consent, despite my friendship and respect for Mr. FLAKE, because I'm not sure that the revised language, even if I had it in front of me, which I don't, would not be subject to the same kind of difficulty, perhaps an interpretation that we can't foresee on first glance. So I reluctantly cannot accede unanimous consent.

Mr. FLAKE. I thank the gentleman.

Let me just state what the narrowed one would do: ''Nothing in the act shall relieve the Native Hawaiian governing authority from complying with the equal protection clause of the 14th amendment to the United States Constitution.''

I'm not trying to play a game of ''gotcha'' here at all. I have the utmost respect, and that respect has grown over the years, for the gentleman from Hawaii. No Member of Congress works harder for his constituents and is more thoughtful in legislating than Mr. ABERCROMBIE. But for those of us who have some concerns that this goes beyond land disposition or other smaller issues, this is not an idle concern that we have.

The U.S. Civil Rights Commission noted recently that this legislation ''would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups according to varying degrees of privilege.''

Mr. ABERCROMBIE. Would the gentleman yield?

Mr. FLAKE. I would be glad to yield.

Mr. ABERCROMBIE. Could I then yield to the expert on the civil rights matter? Because you did kindly bring it to my attention yesterday and we did have a discussion, so I deferred my inquiry to the expert in the House of Representatives on civil rights and Native Americans; that's Mr. KILDEE. Would it be all right if I yielded to him to have a dialogue with you on this?

Mr. FLAKE. That would be fine with me.

Mr. KILDEE. I thank the gentleman for yielding.

First of all, no one questions your sincerity on this. I do think that we could really create a legal situation here without knowing the consequences of the amendment.

Now, Congress, back in 1968, recognizing that in certain areas, the 14th amendment, by the way, says ''States'' shall not do certain things. So they wrote the Indian Civil Rights Act of 1968. That was written very, very carefully by both Houses. The great constitutional attorney Senator Sam Irwin played a major role in that, and they carved out how the basic rights contained within the fifth and the 14th amendment would apply on Indian tribes.

It's a well-done bill. And had we had the chance to discuss this in committee, perhaps we could have reached some agreement; I'm not sure. But I'm very concerned about adopting anything without knowing the consequences when it took them months, in 1968, to craft the Indian Civil Rights Act. It's a two-page bill, and it really enumerates pretty well the fifth amendment and the 14th amendment.

So, at this time, I think that we would be treading on rather dangerous territory to have the courts have to look at, first of all, the Constitution, the treaties, the 14th amendment and the Flake amendment and decide where they conflict, which one to apply.

So, despite your sincerity, I wish we had discussed this in committee, perhaps we could have arrived at some remedy there. But here I think we're going to create a lawyer's delight.

Mr. ABERCROMBIE. If the gentleman would continue to yield for a moment.

Mr. FLAKE. Yes.

Mr. ABERCROMBIE. And I won't take more than a moment or two.

The question, nonetheless, as I indicated when we spoke yesterday and as I indicated to the Rules Committee, is an important one that needs to be addressed. I don't want to run anything by anybody where they might feel even for a moment that they haven't had full consideration of important fundamental issues like civil rights and equality before the law.

If the gentleman would consider the idea of not offering the amendment right now for the reasons that have been stated, we're not quite sure where we're going with it, I can assure the gentleman that, should the bill pass, it has to go to the Senate, it has to come out of the Senate, and we can address those issues, as has been done with other bills with which we are acquainted again and again. You have my word that I will sit down and go over with you in detail and in depth the issues involved here and, should the bill move forward, seek to have those addressed in whatever comes from the other body, if it's able to move forward.

Mr. KILDEE. Will the gentleman yield?

Mr. FLAKE. I would.

Mr. KILDEE. I would take that as a very helpful and constructive suggestion.

First of all, Mr. FLAKE, you and I are friends, and you are a friend of Mr. ABERCROMBIE, also. And I think what he suggests would be a good thing. Perhaps, I'm just saying, I'm not sure, perhaps the 1968 law somehow could be worked into this, but we aren't prepared to do that now without knowing exactly what we're doing. And I think it would be helpful. I would take Mr. ABERCROMBIE's willingness to sit with you. I will be glad to sit with you. We all believe in civil rights, we all believe in the principles of the fifth and the 14th amendment, and I think we could very well work this out in conference.

Mr. FLAKE. I thank the gentleman, and I thank him for providing the text of ICRA yesterday. I did read through it and was convinced and compelled that my original amendment was overly broad, and that's why I sought to restrict it here.

Seeing that we cannot restrict it, I will withdraw the amendment. But I will offer the motion to recommit later. And the motion to recommit is pretty much similar to what the amendment would have been, further restricted.

I take the gentleman's concerns. We don't know what the implications will be with the amendment, but I would submit that we don't really know what the implications might be without the amendment. And what the motion to recommit will do will simply have three sections. It's just one page here. It will say that what will apply is the U.S. Constitution's Bill of Rights, the Federal civil rights laws, and that no racially defined burdens of immunities, so we will make sure that no persons shall, as a result of the operation of this act, be exempted from any Federal or State law, regulation tax or legal burden that is the basis of the law.

I would say that it is true, this needs to go to the Senate and then come back here. And if there are problems in that this is overly broad, the motion to recommit, then that, perhaps, can be fixed as the bill works its way through. But I think that, because we swear an oath to uphold the Constitution, that we should endeavor to make sure that what we pass does not run afoul of, in particular, the 14th amendment.

I understand the gentleman's concerns in talking about ICRA of 1968, but I think we can all agree here that the sovereign nature of Native American tribes in the United States is a little different than what we're talking about here.

So, I think it would behoove us to be careful here and to make sure that we aren't doing anything that might upset the applecart, that we need to make sure that we're not creating something here that might run afoul of the Constitution. I think that's our obligation.

So, that's what the motion to recommit will be. It will be ''forthwith,'' so this will not take any time. It won't have to come back to committee. And I will be glad to give copies across so people can be familiar with it before we're voting on it.

But, again, this is not a game of ''gotcha'' at all. I have great respect for those on the other side of the aisle who have worked hard on this legislation.

With that, I would yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Rather than having a motion to recommit, because I would ask you not to do that for the reasons already enumerated, this deserves our specific attention. And we both know, I think, what happens on a motion to recommit: people come to the floor; they see superficially what's involved. Who can argue about everybody wanting to have civil rights?

And I don't want to have to get into a debate with you about the question of recommittal. Here is what section 7 says of the bill, if you would allow me: ''Prior to conferring Federal recognition on a reorganized governing entity, the Secretary of the Interior must certify that the organic governing documents provide for the protection of the civil rights of the citizens of the entity, as well as all other persons affected by the exercise of the entity's governmental powers and authorities. In addition, the organic governing documents must be consistent with applicable Federal law. If the Secretary finds that the organic governing documents, or any part of these documents, do not meet these requirements, the organic governing documents will not be certified.''

□ 1400

This has to be certified by the Secretary of the Interior as meeting every Federal responsibility. Now, up until this time, and I am sure you agree, if the Speaker will just grant me a little more time and if you will, this bill has never been subject to partisan rhetoric or activity in the committee or elsewhere. From a realistic point of view, motions to recommit really have to do with who is in charge and who is not in charge and that kind of thing. I am not disputing that your question isn't real. But the motion to recommit essentially is repeating, in some fashion, without my quite knowing what the real consequences of that language would be, whereas the language that I am citing to you from section 7 has been vetted again and again and again by minority staff, majority staff, legal staff all over to fit exactly what the gentleman seeks to succeed with.

So I am asking you not to make a motion to recommit on the basis that what I have read to you, in good faith, is language that has been put forward in good faith within the existing bill. And if you conclude that it is not adequate, I pledge to you that I will certainly sit down with you as will Mr. KILDEE and anyone else who is interested in it to try and see what we can do to make the language work as the bill moves along. But I don't want to get trapped in a recommital action which may then put language into the bill, the consequences of which I have no idea. Nor, I think, does the gentleman.

Your intentions are good. I have complete faith and say so publicly in your intentions and your desire to make this a better bill. So I ask you on the basis of a collegial respect for each other and on the basis of our friendship to let the bill go without a recommital based on section 7 and my promise to you that we will address any and all issues that may still be on the table once you have had a chance to examine the consequences of the language you might otherwise propose.

Mr. FLAKE. I appreciate the gentleman's concern about motions to recommit. They are sometimes by their nature political. I don't always vote for the ones offered by my side because of that. However, I am only going to the motion to recommit now because I can't offer my amendment as modified. I would be glad to forgo offering the motion to recommit if I could get a commitment under unanimous consent to restrict my amendment to what I outlined, and I will be glad to read it again. If it is true that the legislation does address this concern, it would be redundant at best, or at worst, but it would at least give us here, and I think, frankly, there is a pretty safe harbor I would think for those of us who are concerned about the constitutionality in saying that this legislation should have the Bill of Rights apply to it, Federal civil rights laws, and there would be no racially defined burdens or immunities. So that is a pretty safe harbor, and I am not seeing it as political. But I would be glad to withdraw that if we could go back and have my amendment accepted as modified.

Mr. ABERCROMBIE. My difficulty is, and I'll conclude with this. Mr. BISHOP, I am very appreciative of your indulgence in this and the other Members. Obviously it is very, very important to all of us and important on a fundamental constitutional basis as well. The difficulty for me in doing that is that I am seeing it right now for the first time. The language in the bill has been gone over and over and over again with a legal fine tooth comb so that I have confidence in that.

My problem is that your intention and my intention may not be what the consequences legally would be when somebody reads it as written on the paper. My friend and mentor on the Armed Services Committee, the chairman, IKE SKELTON, who usually characterizes himself as a country lawyer, which should put everybody on edge and make them wary when he says it, has a saying that he admonishes us with on the Armed Services Committee all the time: Read it. What he means by that is the words on the paper are what will be referred to when legal recourse is taken. And what my fear is, is that not knowing the consequences of the language, despite the gentleman's intention, if I accepted such a thing, I am doing it on blind faith. Not on blind faith in you. I have faith in your good intentions. But I am doing it on blind faith as to what the safe harbor would be or not be or what the consequences would be. I am sorry I can't accept that and I ask you once again to give us the opportunity to work on this in the quiet and in the contemplative atmosphere outside the volatility of the floor.

Mr. FLAKE. I thank the gentleman.

I think that we can work with this in the quiet if we simply accept the motion to recommit or preferably the actual amendment that simply says, and let me read it again, ''Nothing in the act shall relieve the Native Hawaiian governing authority from complying with the equal protection clause of the 14th amendment to the United States Constitution.'' That's a pretty safe harbor. And I think that if it goes to the Senate and we find there is something in there that needs to be modified or tweaked, we can do that as the bill comes back. But we ought to have at least that, I would submit. And so with the knowledge that we can't modify that, then we will offer the motion to recommit later.

Mr. RAHALL. Mr. Speaker, how much time is left for each side?

The SPEAKER pro tempore (Mr. ROSS). The gentleman from West Virginia has 9 minutes remaining. The gentleman from Utah has 2½ minutes remaining.

Mr. RAHALL. Mr. Speaker, before yielding to my next speaker, I do want to certainly recognize the gentleman from Arizona (Mr. FLAKE) who has, for the first time in quite a few months if not this year, been so gracious and so kind to give us at least 5 minutes' notice of what the minority side's motion to recommit is going to be all about instead of at the last nanosecond receiving such recommittal motions as we have on so many bills before this body in an effort to play gotcha. So I do appreciate knowing what that recommittal motion is going to be ahead of time.

Thank you, Mr. FLAKE.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Speaker, I rise today as chairman of the Congressional Asian Pacific American Caucus in unconditional support of H.R. 505, the Native Hawaiian Government Reorganization Act of 2007. This bill provides a process for the reorganization of the Native Hawaiian governing entity for the purposes of a federally recognized government-to-government relationship.

Since the annexation of the Territory of Hawaii, Native Hawaiians, Hawaii's indigenous peoples, have been treated by Congress in a manner similar to

American Indians and Alaska Natives. Congress has passed over 160 statutes to address the conditions of Native Hawaiians and has repeatedly recognized the United States' political and legal relationship with Native Hawaiians.

H.R. 505 formally extends the Federal policy of self-governance and self-determination to Native Hawaiians, thereby providing parity in Federal policies toward American Indians, Alaska Natives, and Native Hawaiians.

This bill does not grant Federal recognition, but provides a process for Native Hawaiians to be federally recognized. The Secretary of Interior will be required to certify the Native Hawaiian governing entity before it is federally recognized.

This bill will also provide a structured process to address the longstanding issues resulting from the overthrow of the Kingdom of Hawaii. The bill provides for a negotiation process to resolve these issues with the Federal and State governments and will alleviate the growing mistrust, misunderstanding, anger and frustration about these matters.

This measure is supported by Hawaii's Republican Governor, Linda Lingle, Hawaii's congressional delegation, and the Hawaii State legislature. The bill is supported by the National Congress of American Indians and Alaska Federation of Natives as well as numerous other national organizations. In addition, the bill is also supported by a number of organizations in Hawaii who have passed resolutions in support of enacting this bill.

I ask my colleagues to support this measure and advance the reconciliation process for our people.

Mr. BISHOP of Utah. Mr. Speaker, I will continue to reserve.

Mr. RAHALL. Mr. Speaker, I have the right to close and I will reserve the balance of my time.

Mr. BISHOP of Utah. In closing, I will merely state I have appreciated this particular dialogue we have had, without the long colloquy we went through in this particular area. I would humbly submit that at least some of the times in the past when more than adequate time to consider a recommital has been given, the bill tends to disappear from the floor before the vote takes place. So we are happy this may not necessarily be the case today.

With that, I will yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, according to the American Bar Association, ''The right of Native Hawaiians to use of property held in trust for them and the right to govern those assets is not in conflict with the equal protection clause since it rests on independent constitutional authority regarding the rights of native nations contained within articles I and II of the Constitution.''

The ABA further adds, ''Our courts have upheld Congress' power to recognize indigenous nations and has specifically recognized that this power includes the power to re-recognize nations whose recognition has been compromised in the historical past.''

Indeed, I would note that this body, the Congress, has recognized 530 of the 561 federally recognized Indian tribes. It is clear that we have this power and this authority and that is simply what we are doing today with respect to Native Hawaiians.

I again want to commend the delegation from Hawaii, Mr. ABERCROMBIE and Ms. HIRONO, for the work that they have put into this legislation. I commend our Committee on Natural Resources and the staff that have worked so hard to, once again, bring this effort to the floor of the House in a nonpartisan, bipartisan piece of legislation. I join my colleague from Hawaii (Mr. ABERCROMBIE) in hoping that the motion to recommit is not offered by the gentleman from Arizona. But should it be offered, then I hope my colleagues will certainly recognize that what we are attempting to prevent by arguing against that motion is a discrimination against Native Hawaiians. And we are asking that we treat them no differently than other Indians.

I would close by again urging my colleagues to join, once again, in supporting this legislation in a strong bipartisan manner and I would urge a ''no'' on any motion to recommit.

Ms. HIRONO. Mr. Speaker, I rise today in strong support of H.R. 505, the Native Hawaiian Government Reorganization Act, which begins to provide a measure of justice for the indigenous, native people of the Hawaiian islands. I could argue the legal and constitutional arguments on why this bill should be passed, but I want to take a few minutes to share some of the history to show why this bill is so important to all the people of Hawai'i.

As many of you know, the Kingdom of Hawai'i was overthrown in 1893. Hawai'i's last Queen, Lili'uokalani, was deposed by an armed group of businessmen and sugar planters, who were American by birth or heritage, with the support of U.S. troops. The Queen agreed to relinquish her throne, under protest, to avoid bloodshed. She believed the United States, which with Hawai'i had diplomatic relations, would restore her to the throne. As we now know, despite the objections of President Grover Cleveland, the injustice of the overthrow was allowed to stand, and the Republic of Hawai'i was established.

A few years later, in 1898, the United States annexed Hawai'i. Prior to annexation, a petition drive organized by Native Hawaiians secured signatures of almost two-thirds of the Native Hawaiian population opposing annexation (29,000 signatures out of an estimated Native Hawaiian population of 40,000). These petitions are now in the National Archives.

The Hawaiian culture was under siege. The Republic of Hawai'i prohibited the use of the Hawaiian language in Hawai'i schools. Everyday use of the Hawaiian language diminished greatly and it was in danger of dying out. Hula, which had been suppressed by the missionaries and then restored by King Kalaukaua a few years before the overthrow, survived but did not flourish. Hawaiians were pressured to assimilate and much was lost.

When Prince Jonah Kuhio Kalaniana'ole was elected to serve as Hawai'i's delegate to Congress, he succeeded in passing the Hawaiian Homes Commission Act of 1920, which set aside some 200,000 acres of land for Native Hawaiians. The reason for the legislation was the landless status of so many Native Hawaiians, who were displaced by newcomers and became the most impoverished population in their native land. In recognition of its trust responsibility toward Native Hawaiians, Congress passed the Hawaiian Homes Commission Act, which is still in force.

Hawai'i became a state in 1959. Beginning in the late 1960s and early 1970s, a Native Hawaiian cultural rediscovery began in music, hula, language, and other aspects of the culture. This cultural renaissance was inspired by hula masters (kumu hula), who helped bring back ancient and traditional hula; musicians and vocalists, who brought back traditional music and sang in the Hawaiian language; and political leaders, who sought to protect Hawai'i's sacred places and natural beauty.

This flowering of Hawaiian culture was not met with fear in Hawai'i, but with joy and celebration and an increased connection with each other. People of all ethnicities in Hawai'i respect and honor the Native Hawaiian culture. We are not threatened by the idea of self determination by Native Hawaiians.

In 1978, Hawai'i convened a constitutional convention that was designed, in part, to right some of the wrongs done to Native Hawaiians. The constitutional convention created the Office of Hawaiian Affairs or OHA so that Native Hawaiians would have some ability to manage their own matters. The people of Hawai'i ratified the creation of OHA and voted to allow the trustees of the Office of Hawaiian Affairs to be elected solely by Native Hawaiians. Although the Supreme Court in Rice v. Cayetano decided that limiting the vote in this manner violated the 15th Amendment, that decision was based on the fact that the State of Hawai'i ran the elections, not whether or not Native Hawaiians are an indigenous, native group with an inherent sovereignty. In fact, the court expressly avoided the issue of whether or not Native Hawaiians are analogous to an Indian tribe.

The Constitutional Convention also laid the ground work for the return of some federal lands to Native Hawaiians, including the island of Kaho'olawe, which is currently held in trust for a future Native Hawaiian governing entity. The ConCon, as it is known in Hawai'i, also designated the Hawaiian language (along with English) as the official state language of Hawai'i for the first time since the overthrow in 1893.

I was in the Hawai'i State Legislature when we approved creation of Hawaiian language immersion schools, recognizing that language is an integral part of a culture and people. The Hawaiian language was in danger of disappearing. Public Hawaiian language preschools, called Punana Leo, were started in 1984. We now have Hawaiian language elementary, middle, and high schools in Hawai'i, and a new generation of fluent Hawaiian language speakers are helping to keep this beautiful and culturally important language alive. Other native peoples are looking to the Hawai'i model as a means of preserving and perpetuating their native languages.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support H.R. 505, and I do so in recognition

of the long-standing ties between Native Hawaiians and Alaska Natives, who themselves underwent a struggle to be recognized for the purpose of settling their aboriginal land claims. H.R. 505 concerns a struggle involving Native Hawaiians, who are seeking to formalize a kind of relationship among the Federal government, the State of Hawaii, and Hawaii's aboriginal peoples based on the powers of the Congress to regulate Indian affairs. I have been proud to work with my good friend, the Gentleman from Hawaii (Mr. ABERCROMBIE), to work on passing this bill for all the years we have served together. I want to recognize and congratulate the Gentleman for his iron commitment to this legislation and to the well-being of Hawaii and the nation.

This Congress has passed several laws of unique application to Native Hawaiians, invoking the authority of the so-called Indian Commerce Clause of Article I, Section 8 of the Constitution. An important example of these laws is when Congress conveyed lands in Hawaii for the purpose of benefiting the Natives. This has been supplemented with additional benefits and services exclusively for Natives based on their status as Natives.

But there is a shortcoming in these laws: Congress has not yet authorized the Natives to organize a governing entity. At some point, we the Congress have to provide a means for the Native Hawaiians to administer these benefits in accordance with our current policy of promoting self-determination among Native American people in general. Native Hawaiians have largely stayed intact as a distinct community and we would be doing a great disservice to them if we did not set up a process for their recognition as a governing entity. The governing entity will be the vehicle they use to advance their economies, and preserve and pass on their special heritage and language to future generations.

I understand that some Members have a problem with this bill. It has been said many times already but it's worth emphasizing again: H.R. 505 has the endorsement of the Governor, the Congressional Delegation and the State Legislature of Hawaii. It does not cut into programs for American Indians and Alaska Natives. Enrollment to the governing entity is elective.

We can trace the genesis of this bill, embodying the hope of an indigenous people to control their own fate, all the way back to the overthrow of 1893. It has been a long road. I believe how we treat our native indigenous people reflects our values and who we are. Clearly, there is much in the history of our interactions with the native people of what is now the United States that makes us less than proud. But one of the great attributes of America has always been the ability to look objectively at our history, learn from it, and where possible make amends.

Native Hawaiians, like American Indians and Alaska Natives, have an inherent sovereignty based on their status as indigenous, native people. They desire the right to exercise management over their own affairs and land. By law, a portion of income from the former crown lands of the Kingdom of Hawai'i (also called ceded lands) is allocated to benefit the native Hawaiian people. At present, that income is managed by the Office of Hawaiian Affairs, a state agency. Management of this income and Hawaiian lands should be done by a Native Hawaiian governing entity now that the trustees of the Office of Hawaiian Affairs are elected by all the residents of the State of Hawai'i and not just Native Hawaiians.

As has already been mentioned today, this legislation is supported by the great majority of Hawai'i's people, by its Republican governor, by our State Legislature, and by dozens of organizations, including the Congress of American Indians and the Alaska Federation of Natives.

This legislation primarily affects the State of Hawai'i. Our state motto, which is the same as that of the Kingdom of Hawai'i, is ''Ua man ke ea o ka aina i ka pono,'' which means ''the life of the land is perpetuated in righteousness.'' This is a historic vote and one that helps to perpetuate righteousness by righting a historic wrong. I ask that you stand with the people of Hawai'i and oppose the Flake amendment, oppose the motion to recommit, and support passage of the bill.

Mahalo nui loa (thank you very much).

For these reasons, we owe a great deal of deference to the judgment of the elected representatives of the State of Hawaii. They are the ones who are accountable for this legislation on their islands. The Delegation of Hawaii understands best that Native Hawaiians have struggled for decades to achieve a status that adequately promotes their self-determination.

Let's keep in mind that Congress has recognized Native Americans for various purposes over the years. We are not limited by a strict set of criteria such as those set forth in the Interior Department's Federal acknowledgment regulations. While these criteria are sensible to apply in some cases, a quick look at some of the Indian statutes passed in the early days of our republic make it clear that Congress viewed its powers to deal with Indians in a very broad sense.

Opponents often say that Native Hawaiians are not a tribe and that Article I, Section 8 of the Constitution limits Congress to recognize only tribes in the contiguous 48 States.

The meaning of ''tribes'' in Article I, Section 8—commonly called the Indian Commerce Clause—is broad in scope. There is nothing that limits Congress to recognizing only the aboriginal people of the Lower 48 States. In fact, Congress was recognizing Indians for special reasons when they were in lands that were not part of the United States. And Congress has authorized the reorganization of reservations that were broken up and tribes that were terminated. Again, Congress has broad, plenary authority to recognize Native peoples.

H.R. 505 is a good bill and it is a first, critical step for Native Hawaiians to deal with Hawaii and the Federal government in a fashion befitting their special status as a distinct Native community. In their wisdom, the Representatives from Hawaii have left issues regarding benefits, services, and lands to future negotiations with the newly organized governing entity. We can deal with these issues in a deliberative, careful fashion with the Native governing entity when it is organized.

I'm pleased to support H.R. 505 and to advance a process for recognizing a Native Hawaiian entity.

Mr. RAHALL. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the bill has expired.

Pursuant to House Resolution 764, the previous question is ordered on the bill.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. FLAKE. In its current form.

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

The Clerk read as follows:

Mr. Flake moves to recommit the bill H.R. 505 to the Committee on Natural Resources with instructions to report the same back to the House forthwith with the following amendment:

Page 44, after line 22, insert the following:

(h) APPLICABILITY OF THE UNITED STATES CONSTITUTION'S BILL OF RIGHTS.—The Native Hawaiian governing entity shall be subject to the United States Constitution's Bill of Rights and other protections in the same manner and to the same extent as a State or local government of the United States.

(i) APPLICABILITY OF FEDERAL CIVIL RIGHTS LAWS.—The Native Hawaiian governing entity shall be subject to Federal civil rights and antidiscrimination laws in the same manner and to the same extent as a State or local government of the United States.

(j) NO RACIALLY DEFINED BURDENS OR IMMUNITIES.—No persons shall, as a result of the operation of this Act, be exempted from any Federal or State law, regulation, tax, or other legal burden on the basis of that person's race or ancestry or on the basis of any classification that is defined by race or ancestry.

Mr. FLAKE (during the reading). I ask unanimous consent that the motion be considered as read.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona is recognized for 5 minutes in support of his motion.

Mr. FLAKE. Mr. Speaker, as I mentioned before, I originally had an amendment that I would have liked to have offered which would simply say that we would add the following: ''Nothing in this act shall relieve a Native Hawaiian governing authority from complying with the equal protection clause of the 14th amendment to the United States Constitution.''

This motion to recommit is very similar to that.

As I mentioned before, the U.S. Civil Rights Commission has concerns about the legislation. They said, ''This would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups accorded varying degrees of privilege.''

I think there is sufficient concern that we should find the safe harbor here of making sure that the 14th amendment applies. This motion to recommit, I will read the entire thing, it is not long. So I will read all of it.

□ 1415

It simply says: ''Page 44, after line 22, insert the following: Applicability of

the United States Constitution's Bill of Rights. The Native Hawaiian governing entity shall be subject to United States Constitution's Bill of Rights and other protections in the same manner and to the same extent as a State or local government of the United States.

''Section (i). Applicability of Federal civil rights laws. Shall be subject to civil rights and antidiscrimination laws in the same manner and to the same extent as a State or local government of the United States. Section (j). No racially defined burdens or immunities. No person shall, as a result of the operation of this Act, be exempted from any Federal or State law, regulation, tax, or other legal burden on the basis of that person's race or ancestry or on the basis of any classification that is defined by race or ancestry.''

This is a pretty good default, a default back to the Constitution, and says that nothing in this act has to be compatible, has to fit within the Constitution. That is all that this motion to recommit does. Some will raise the concern that this might apply to Native American groups here on the mainland. It does not. This only applies to this act, to the Native Hawaiian governing entity.

Mr. Speaker, this is a very narrowly drafted motion to recommit. It is drafted ''forthwith'' so it will come immediately back so it won't spend any more time in committee. Then, if there are issues unforeseen, when it goes to the Senate and comes back, we can work on them. But in the meantime, I think it is a much better option to actually have this default and to go back to the U.S. Constitution.

The gentleman mentioned earlier that the act provides that the Secretary of the Interior has to certify that we are in compliance with the U.S. Constitution. I would just state for the record that we haven't had the best record relying on the Secretary of the Interior to manage trust accounts or other things. We shouldn't delegate that authority here. We shouldn't delegate our responsibility to uphold the Constitution to an official in the executive. That is our purpose here. We make the laws. We should ensure that they are given the guidelines and given the protections here that the Constitution affords.

So I would urge adoption of the motion to recommit. As I mentioned, I offered it reluctantly. I would have rather, because motions to recommit sometimes become political, and this is not, so I would have preferred to offer this as a straight amendment narrowed to this specific act, but wasn't afforded that opportunity.

Mr. Speaker, I also want to say again that I want to commend those on the other side of the aisle for working so hard on this legislation and for their diligence in working to make sure that this is a good bill. This will improve it. This will simply say that those under this act are afforded the guarantees and the protections of the U.S. Constitution and the Bill of Rights.

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

Mr. ABERCROMBIE. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Hawaii is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, this bill before us is the result of years of bipartisan and nonpartisan work, which has been mentioned. I take second to none my regard for Mr. FLAKE and recitation once again of our personal regard for one another; however, I am afraid that the reason I have to oppose this motion to recommit is for precisely the reasons I mentioned during our previous dialog.

I am pleased that he actually read what the motion to recommit says because the part here, and you may recall in my previous commentary where I said we can't be sure what the consequences might be unless we have had a chance to vet them. The bill itself has been vetted again and again by counsel on both sides of the aisle and by groups that have an interest in the bill. This is the consensus that this meets all relevant legal technicalities.

Here, look what it says: ''The Native Hawaiian governing entity shall be subject to the United States Constitution's Bill of Rights and other protections in the same manner and to the same extent as a State or local government of the United States.'' That is an invitation to an avalanche of litigation. How are you going to define ''same manner'' and ''same extent'' of a State or local government?

The indigenous people, whether they are Native Americans in tribes, whether they are Alaska Natives in corporations, Native Hawaiians trying to put together a government, and they are not a State, they are not a local government, and to say in a motion to recommit that we are going to require them to exactly replicate State and local governments, which is subject to litigation all the time, you would have to have a trust fund set up to handle the litigation, I think, that would result from that.

Mr. Speaker, I don't think that that is Mr. FLAKE's intent. In fact, I would stipulate that that is not his intent. Our problem is we haven't had a chance to sit down and go over this to see whether we can cover any of these contingencies. I wish he had accepted my plea, my offer, and I wish he would stand up now and say, I have seen the light and I am going to withdraw my motion to recommit. Because if you go to number (i), applicability of Federal civil rights laws, it says the same thing with respect to civil rights and antidiscrimination laws in the same manner and to the same extent as a State or local government of the United States.

My friends, my colleagues, I agree that Mr. FLAKE has brought this not for political reasons but because of his sincere belief that this needs to be addressed. I can assure you that if anything is political, this is political by default. Far from saying simply that it is a simple explication of his point of view, it is an absolute wellspring of complication to try and figure out what the same extent of State and local government laws are with regard to civil rights, antidiscrimination or Bill of Rights and other protections. ''Other protections,'' what does that mean? That will be litigated to death.

So, Mr. Speaker, I ask Mr. FLAKE, now that I have analyzed his simple language for him, if he would reconsider withdrawing the motion to recommit. If he does not, I pledge to him now that if we are able to defeat the motion to recommit, which I think should be defeated by anybody who's worked on this bill. I make this final plea in all seriousness, Mr. Speaker. We have worked too hard, come too far on a nonpartisan basis, Republican and Democrat alike, to come to this conclusion and throw ourselves into the briar patch of State and government applicability of laws as recommended in the recommittal. The bill itself deals with all these issues on civil rights.

Mr. Speaker, I ask that the motion to recommit be defeated and that we move to a vote, an overwhelming vote on the underlying bill, H.R. 505, which is an exemplary product, a singular stalwart example of what bipartisan work can do in this House of Representatives.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. FLAKE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 178, nays 235, not voting 19, as follows:

[Roll No. 999]

YEAS—178

Aderholt	Boustany	Coble
Akin	Brady (TX)	Conaway
Alexander	Broun (GA)	Crenshaw
Bachmann	Brown (SC)	Cubin
Bachus	Brown-Waite, Ginny	Culberson
Baker	Buchanan	Davis, David
Barrett (SC)	Burgess	Davis, Tom
Bartlett (MD)	Burton (IN)	Deal (GA)
Barton (TX)	Calvert	Dent
Biggert	Camp (MI)	Diaz-Balart, L.
Bilirakis	Campbell (CA)	Diaz-Balart, M.
Bishop (UT)	Cannon	Doolittle
Blackburn	Cantor	Drake
Blunt	Capito	Dreier
Boehner	Carter	Duncan
Bonner	Castle	Ehlers
Bono	Chabot	Emerson
Boozman		Everett

Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Goodlatte
Granger
Graves
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Inglis (SC)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—235

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Cole (OK)
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Goode
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Renzi
Reynolds
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Woolsey
Wu
Yarmuth

NOT VOTING—19

Bilbray
Buyer
Carson
Davis (CA)
Davis (KY)
Hinojosa
Hunter
Issa
Jindal
Johnson, E. B.
Knollenberg
Lewis (CA)
Reyes
Ros-Lehtinen
Shea-Porter
Walberg
Wilson (OH)
Wynn
Young (AK)

□ 1450

Messrs. EDWARDS, STUPAK, MITCHELL, CARNEY, Mrs. McCARTHY of New York, Messrs. COSTELLO, LYNCH, HALL of Texas, Ms. BERKLEY, Messrs. SCOTT of Georgia, ENGLISH of Pennsylvania, TIERNEY, DONNELLY and LOBIONDO changed their vote from ''yea'' to ''nay.''

Messrs. CARTER, SMITH of New Jersey, TERRY, WELDON of Florida, SHADEGG, CHABOT, and PICKERING changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. KNOLLENBERG. Mr. Speaker, on rollcall No. 999, I was unavoidably detained. Had I been present, I would have voted ''yea.''

Mr. WALBERG. Mr. Speaker, on rollcall No. 999, I was unable to vote. Had I been present, I would have voted ''yea.''

Stated against:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 999, had I been present, I would have voted ''nay.''

(By unanimous consent, Mr. SHULER was allowed to speak out of order.)

LONGEST YARD CLASSIC CONGRESSIONAL FOOTBALL GAME

Mr. SHULER. Mr. Speaker, I would like to congratulate everyone and thank everyone who took part in this year's Longest Yard Classic; although the game didn't quite go like we had expected it to go. It was 28–0. Zero is something I've come to know pretty well during my Washington days with the Redskins. We knew quite well about that zero.

Quarterback rating did not go up during that game. I will say that we had some great wide receivers. Every one offensively who got in the game got a chance to catch the football, which was great.

I do want to say and congratulate the Capitol Hill Police, not only for their great win over the Members of Congress, but for what they do when they sacrifice their lives every single day of their lives.

We were able to see firsthand how actually across the aisle we can work together, Democrats and Republicans, 7 a.m. practices. No one showed up late, almost never.

Ken Harvey and John Booty from the NFL came down and helped coach us, and we have special thanks to them and to all the participants, all the Members who played and to the Members who came out to watch us.

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

Mr. SHULER. I yield to the gentleman from Pennsylvania, my friend.

Mr. SHUSTER. Mr. Speaker, I want to thank the gentleman, and I just want to echo what he said about the Capitol Hill Police and what they do every day, protecting us, making sure the grounds are safe, not only for us but the people who do business here, the visitors here. So we owe them a great debt of gratitude.

I would urge all of you, while not all of you were able to get out to the game and not all of you were able to play in the game, but I would urge all of you, when you see a Capitol Hill Police officer out there, thank them. Thank them for what they do for you, for your family and for, as I said, everybody that uses this great Capitol Hill complex.

The game, as HEATH pointed out, didn't end up the way we thought it would. Some thought we gave better than we took. Some thought that the Capitol Hill Police could have scored 56 on us. That will remain to be seen, but nobody was hurt during the game. Everybody played. We all had a lot of fun, and we raised some money for the benevolent fund that goes to the kids of the Capitol Hill Police. So it was a great success.

I appreciate all those that participated. Practices were early. HEATH and John Booty and Ken Harvey, who really ran the show, did a great job of getting us out there in the morning.

I also want to thank the Members that showed up to the game. Some of you came out: HENRY BROWN, MIKE CONAWAY, STEPHANIE TUBBS JONES, JESSE JACKSON, GREGORY MEEKS and LINCOLN DAVIS. Thank you guys for coming out there to the game. I think that's extremely important that when you are out there, we're out there, leaving a little skin on the field, a little blood, but all of it's for a great cause to the Capitol Hill Police.

Sergeant at Arms, Bill Livingood, thank you. The Chief of Police, Philip Morse, thank you for all your help. And also a special thanks to Vardell Williams, who's now become the voice of the Longest Yard Classic. Thank you. He works here for the superintendent, but he volunteered to be out there to be the voice of the Longest Yard Classic.

So again I thank everybody, and congratulations to the Capitol Hill Police.

The following is our team roster.

Member name	State	Jersey number
Kendrick Meek	Florida	0
Zach Wamp	Tennessee	1
Pat Murphy	Pennsylvania	3
Jim Jordan	Ohio	4
Joe Donnelly	Indiana	7
Anthony Weiner	New York	9
Charlie Dent	Pennsylvania	15
Brad Ellsworth	Indiana	18
Heath Shuler	North Carolina	21
Jason Altmire	Pennsylvania	24
Sam Graves	Missouri	27
Jack Kingston	Georgia	28
Jim Gerlach	Pennsylvania	30
John Sullivan	Oklahoma	39
Dean Heller	Nevada	42
Jeff Flake	Arizona	44
Todd Tiahrt	Kansas	45
Michael Arcuri	New York	58
Thaddeus McCotter	Michigan	65
Rick Renzi	Arizona	67
Gresham Barrett	South Carolina	76
Paul Ryan	Wisconsin	80
Bill Shuster	Pennsylvania	00
Kevin McCarthy	California	11*

*Might change.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. RAHALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

The vote was taken by electronic device, and there were—yeas 261, nays 153, not voting 18, as follows:

[Roll No. 1000]

YEAS—261

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Bono
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Calvert
Cannon
Capps
Capuano
Cardoza
Carnahan
Carney
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Cole (OK)
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (IL)
Davis, Lincoln
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Frank (MA)
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pearce
Perlmutter
Peterson (MN)
Peterson (PA)
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reynolds
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Sherman
Shuler
Simpson
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walz (MN)
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Welch (VT)
Weller
Wexler
Wilson (NM)
Woolsey
Wu
Yarmuth
Young (FL)

NAYS—153

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilirakis
Blackburn
Blunt
Boehner
Bonner
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Camp (MI)
Campbell (CA)
Cantor
Capito
Carter
Castle
Chabot
Coble
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
Everett
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hoekstra
Hulshof
Inglis (SC)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kuhl (NY)
Lamborn
Latham
Lewis (KY)
Linder
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pence
Petri
Pickering
Pitts
Platts
Poe
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (NE)
Smith (TX)
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Upton
Walberg
Walsh (NY)
Wamp
Waters
Weldon (FL)
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf

NOT VOTING—18

Bilbray
Buyer
Carson
Davis (CA)
Dicks
Feeney
Hunter
Issa
Jindal
Johnson, E. B.
Lewis (CA)
Reyes
Ros-Lehtinen
Rush
Shea-Porter
Wilson (OH)
Wynn
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1504

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FLY OUR FRIENDLY AND SAFE SKIES?

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

Mr. POE. Mr. Speaker, ''Fly the friendly and safe American skies.'' That's what Americans are being told by our government. But not so fast.

NASA just completed a 4-year survey of thousands of pilots on the issue of air safety. The results have been compiled, but NASA not only won't release the results, they have ordered the survey to be deleted from official computers.

NASA officials have said if the results are public, the airline customers' confidence in air safety will be jeopardized. The taxpayers paid $8 million for this survey, and the results should be open and not held hostage just because the results may reveal bad news.

The American public and the airline industry should know what the pilots say about air safety. If it wasn't for the press, the mere knowledge of this survey would not have been exposed, but would have remained a dark secret behind the Moon. Our ''Challenge'' is to continue to ''Endeavor'' to ''Discover'' the truth.

NASA should not be in the business of hiding the truth. Americans can deal with the truth, even if NASA cannot.

And that's just the way it is.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SARBANES). Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONORING DEVEN AMIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, I rise today to recognize the achievements of one of my constituents, Mr. Deven Amin of Easton, Pennsylvania. Deven, a senior at the Blair Academy in Blairstown, New Jersey, recently raised $7,500 in local contributions for the Nyumbani Village Project in Kenya.

Nyumbani Village, located a short distance from Kenya's capital, Nairobi, is a settlement where HIV/AIDS affected orphans are placed under the stewardship of elderly Kenyans in mutually beneficial family settings. Founded in 1992, the village today provides shelter, nutrition and education for roughly 160 orphans, over 100 of which are infected with HIV/AIDS, and 63 elderly adults. From infants to teenagers, these orphans represent nearly every tribe and ethnicity in Kenya.

In the past 2 years, Deven has twice traveled to Kenya to volunteer at Nyumbani, where he helped cultivate the village's farm, organize children's activities and assist families with various household duties. After witnessing firsthand the impact of this unique project on its many participants, Deven returned to Easton eager to share his experiences, enhance awareness of the global HIV/AIDS epidemic and generate local support for the continued development of the Nyumbani Village.

This year, Deven raised an astonishing $7,500 for the project through an ambitious letter-writing campaign that targeted local businesses and health care professionals. The funds gathered by Deven will be used to help construct a critical multipurpose hall in Nyumbani. This structure will provide necessary recreation space for children during times of inclement weather and serve as a gathering place for the entire Nyumbani community. Construction of the facility has been identified as a top priority by the program's directors, who envision the settlement housing between 1,200 and 1,600 individuals in the future.

While raising money, Deven also educated residents of the Lehigh Valley about the devastating impact of HIV/AIDS in Africa through various speaking engagements at local organizations. Recently, Deven spoke at the Palmer Township Kiwanis Clubs, and he will address an audience at a local Rotary International chapter in the near future. He also plans to host a chapel service at his high school in late November. Deven's desire to enhance local awareness of global HIV/AIDS through firsthand accounts of his experience in Kenya is truly commendable.

Mr. Speaker, I ask that my colleagues today join me in recognizing the achievements of Deven Amin, whose selfless efforts will undoubtedly improve the lives of hundreds of Kenyan orphans impacted by HIV/AIDS. We are all extraordinarily proud of Deven. On behalf of myself and the people of the 15th Congressional District, I congratulate him and thank him once again for what he has done to help make this world a better place.

IRAQ AND AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, when General Petraeus testified before Congress last month, there was a lot of happy talk from the administration about how much improved things had gotten in Iraq. From the way they talked, you would have thought that Iraq had become a sort of paradise, a middle eastern Shangri-La.

But now it's back to harsh reality, and yesterday the administration handed us yet another bill for their senseless occupation of Iraq. This time, the tab is $46 billion in supplemental funding. And this is for Iraq as well as Afghanistan. That's on top of the nearly half trillion dollars we have already spent in Iraq. And make no mistake, this isn't the last bill for Iraq that we will be getting. The administration has no exit strategy. Instead, it has a strategy to keep the occupation going for decades. So the bill will keep piling up until our credit cards are absolutely maxed out. To make matters worse, the administration had the gall to hand us this enormous bill just a few weeks after vetoing the SCHIP bill, which they said was too expensive.

Let's examine the White House's logic. Our policy in Iraq is a failure while the SCHIP program is a big success. So you would think the administration would want to cut our losses in Iraq and increase our investment in SCHIP. But, no, it's the other way around. The White House has turned into Superman's bizarro world, where everything is the opposite of what it should be.

Yesterday, when the administration announced its funding request, the President said, and I quote, ''I often hear that war critics oppose my decisions, but still support the troops. Well, I'll take them at their word, and this is the chance to show that they support the troops.''

Well, a few weeks ago, the administration had a chance to show that it supported the troops, and it blew it. The SCHIP bill that was vetoed included the bill that I sponsored, H.R. 3481, the Support for Injured Servicemembers Act. This bill amends the Family Medical Leave Act to allow family members of a soldier wounded in Iraq or Afghanistan or any other conflict to take up to 6 months leave from work to care for that soldier.

This change in the Family Medical Leave Act is desperately needed by the families of our brave troops. The Dole-Shalala Commission reported that 21 percent of active duty soldiers, 15 percent of reservists and 24 percent of retired or separated soldiers have had family members or friends give up their jobs to care for them while they recovered from their wounds. And 33 percent of active duty soldiers, 22 percent of reservists and 37 percent of retired or separated soldiers have had a family member or close friend relocate, relocate for extended periods of time to care for them while they were in the hospital. So extending the Family Medical Leave Act benefits would help many military families when they actually need the help the most. That's why my bill has been endorsed by the Military Officers Association of America, the Enlisted Association of the National Guard of the United States, the National Military Family Association, and the National Partnership for Women and Families.

The administration's veto of SCHIP was a slap in the face, not only to the children that will not be covered, but to all of these fine organizations.

Let's support our wounded troops and their families and let's support our courageous troops in the field in Iraq by rejecting this administration's request for supplemental funding, but, instead, fully funding the safe, orderly and timely redeployment of all of our troops and of all of our military contractors. That way we will be supporting the troops in Iraq.

This is what Congress must do. This is what the American people want. And if we fail to do it, we will have failed the American people and our troops.

□ 1515

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3867, SMALL BUSINESS CONTRACTING PROGRAM IMPROVEMENTS ACT

Ms. SUTTON, from the Committee on Rules, submitted a privileged report (Rept. No. 110–407) on the resolution (H. Res. 773) providing for consideration of the bill (H.R. 3867) to update and expand the procurement programs of the Small Business Administration, and for other purposes, which was referred to the House Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. SARBANES). Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

MUHAMMAD A. NASSARDEEN, FOUNDER OF RECYCLING BLACK DOLLARS IN LOS ANGELES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, it was with great sorrow that I learned of the loss of a stalwart champion of political and business empowerment within the Los Angeles community. I'm speaking of Mr. Muhammad A. Nassardeen, a pioneering entrepreneur and a staunch promoter of ''economic activism.''

Muhammad Nassardeen founded Recycling Black Dollars in 1988 as a way

to encourage African Americans and others to patronize African American-owned businesses and promote the practice as a much needed strategy for revitalizing the community and addressing problems such as unemployment.

Muhammad Nassardeen never saw the City of Los Angeles as it is, but he envisioned what it could be. He was ''connector'' extraordinaire. He connected black consumers with black businesses, and black business owners with one another. It is estimated that some 2,000 to 3,000 businesses benefited from the work of Recycling Black Dollars.

Muhammad Nassardeen's vision and focus on the economic empowerment and advancement of ethnic minorities in Los Angeles will be sorely missed. He was a beacon of light out of economic darkness for many.

The City of Los Angeles, colleagues, family and friends all mourn the loss of Muhammad A. Nassardeen, and I extend my most heartfelt condolences to his family, his colleagues, his many close friends in the Los Angeles business community and here on Capitol Hill.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. EDWARDS) is recognized for 5 minutes.

(Mr. EDWARDS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LAMPSON) is recognized for 5 minutes.

(Mr. LAMPSON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ENGLISH) is recognized for 5 minutes.

(Mr. ENGLISH of Pennsylvania addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

(Ms. WATERS addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

(Mr. BILIRAKIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. SNYDER) is recognized for 5 minutes.

(Mr. SNYDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

(Mr. WOLF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2007 AND FY 2008 AND THE 5-YEAR PERIOD FY 2007 THROUGH FY 2008

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

Mr. SPRATT. Mr. Speaker, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal years 2007 and 2008 and for the 5-year period of fiscal years 2008 through 2012. This report is necessary to facilitate the application of sections 302 and 311 of the Congressional Budget Act and sections 204, 206 and 207 of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008.

The term ''current level'' refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set by S. Con. Res. 21. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels.

The second table compares the current levels of discretionary appropriations for fiscal years 2007 and 2008 with the ''section 302(b)'' suballocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is needed to enforce section 302(f) of the Budget Act because the point of order under that section applies to measures that would breach the applicable section 302(b) suballocation.

The third table compares the current levels of budget authority and outlays for each authorizing committee with the ''section 302(a)'' allocations made under S. Con. Res. 21 for fiscal years 2007 and 2008 and fiscal years 2008 through 2012. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) allocation of new budget authority for the committee that reported the measure.

The fourth table gives the current level for fiscal years 2009 and 2010 for accounts identified for advance appropriations under section 206 of S. Con. Res. 21. This list is needed to enforce section 206 of the budget resolution, which creates a point of order against appropriation bills that contain advance appropriations that: (i) are not identified in the statement of managers; or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2008 CONGRESSIONAL BUDGET ADOPTED IN S. CON. RES. 21

[Reflecting Action Completed as of October 19, 2007—On-budget amounts, in millions of dollars]

	Fiscal year—		
	2007	2008 [1]	2008–2012
Appropriate Level:			
Budget Authority	2,250,680	2,350,996	(2)
Outlays	2,263,759	2,353,954	(2)
Revenues	1,900,340	2,015,841	11,137,671
Current Level:			
Budget Authority	2,250,680	2,346,297	(2)
Outlays	2,263,759	2,352,281	(2)
Revenues	1,904,516	2,050,418	11,313,688
Current Level over (+) / under (−) Appropriate Level:			
Budget Authority	0	−4,699	(2)
Outlays	0	−1,673	(2)
Revenues	4,176	34,577	176,017

[1] Discretionary levels based on annualization of continuing resolution. Pending action by the House Appropriations Committee on spending covered by section 207(d)(I)(E) (overseas deployments and related activities), resolution assumptions are not included in the appropriate level.

[2] Not applicable because annual appropriations Acts for fiscal years 2009 through 2012 will not he considered until future sessions of Congress.

BUDGET AUTHORITY

For purposes of section 311 of the Congressional Budget Act, appropriations bills will generally be scored without regard to levels in the continuing resolution that expire on November 16, 2007. The continuing resolution provides $923,554 million in budget authority on an annualized basis. Thus enactment of measures that provide new budget authority for FY 2008 in excess of $928,523 million (if not already included in the current level estimate) would cause FY 2008 budget authority to exceed the appropriate level set by S. Con. Res. 21.

OUTLAYS

For purposes of section 311 of the Congressional Budget Act, appropriations bills will generally be scored without regard to levels in the continuing resolution that expire on November 16, 2007. The continuing resolution results in $585,600 million in outlays on an

annualized basis. Thus enactment of measures providing new outlays for FY 2008 in excess of $587,273 million if not already included in the current level estimate) would cause FY 2008 outlays to exceed the appropriate level set by S. Con. Res. 21.

REVENUES

Enactment of measures resulting in revenue reduction for FY 2008 in excess of $34,577 million (if not already included in the current estimate) would cause FY 2008 revenue to fall below the appropriate level set by S. Con. Res. 21.

Enactment of measures resulting in revenue reduction for the period of fiscal years 2008 through 2012 in excess of $176,017 million (if not already included in the current level estimate) would cause revenues to fall below the appropriate levels set by S. Con. Res. 21.

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2007—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS COMMITTEE 302(a) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

[In millions of dollars]

Appropriations Subcommittee	302(b) suballocations as of Oct. 1, 2007 (H. Rpt. 110–182)		Current level reflecting action completed as of Oct. 1, 2007		Current level minus suballocations	
	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	18,569	19,356	18,569	19,356	0	0
Commerce, Justice, Science	51,950	52,236	51,950	52,236	0	0
Defense	489,519	499,510	489,519	499,510	0	0
Energy and Water Development	30,296	29,882	30,296	29,882	0	0
Financial Services and General Government	19,488	20,360	19,488	20,360	0	0
Homeland Security	33,962	41,195	33,962	41,195	0	0
Interior, Environment	26,411	27,569	26,411	27,569	0	0
Labor, Health and Human Services, Education	144,766	145,567	144,766	145,567	0	0
Legislative Branch	3,774	3,950	3,774	3,950	0	0
Military Construction, Veterans Affairs	49,752	46,889	49,752	46,889	0	0
State, Foreign Operations	31,358	35,186	31,358	35,186	0	0
Transportation, HUD	50,471	107,765	50,471	107,765	0	0
Unassigned (full committee allowance)	0	0	0	0	0	0
Total (Section 302(a) Allocation)	950,316	1,029,465	950,316	1,029,465	0	0

NOTE: Allocations and current level include off-budget amounts.

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2008—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS COMMITTEE 302(a) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

[In millions of dollars]

Appropriations Subcommittee	302(b) suballocations as of Oct. 19, 2007 (H. Rpt. 110–236)		Current level reflecting action completed as of Oct. 19, 2007[1]		Current level minus suballocations	
	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	18,817	20,027	18,088	19,162	–729	–865
Commerce, Justice, Science	53,551	55,318	50,260	52,162	–3,291	–3,156
Defense	459,332	475,980	489,614	495,379	30,282	19,399
Energy and Water Development	31,603	32,774	30,428	32,061	–1,175	–713
Financial Services and General Government	21,434	21,665	19,731	20,475	–1,703	–1,190
Homeland Security	36,262	38,247	33,972	36,876	–2,290	–1,371
Interior, Environment	27,598	28,513	26,409	27,535	–1,189	–978
Labor, Health and Human Services, Education	151,748	148,174	144,706	145,187	–7,042	–2,987
Legislative Branch	4,024	4,042	3,834	3,870	–190	–172
Military Construction, Veterans' Affairs	64,745	54,832	52,883	49,882	–11,862	–4,950
State, Foreign Operations	34,243	33,351	31,335	32,242	–2,908	–1,109
Transportation, HUD	50,738	114,528	48,139	112,905	–2,599	–1,623
Unassigned (full committee allowance)	0	1,646	0	0	0	–1,646
TOTAL (Section 302(a) Allocation)	954,095	1,029,097	949,399	1,027,736	–4,696	–1,361

[1] Includes continuing resolution on an annualized basis. Scoring for individual appropriations bills will generally ignore scoring for the continuing resolution.
NOTE: Allocations and current level include off-budget amounts.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR RESOLUTION CHANGES

[Reflecting Action Completed as of October 19, 2007—Fiscal Years, in millions of dollars]

House Committee	2007		2008		2008–2012 total	
	BA	Outlays	BA	Outlays	BA	Outlays
Agriculture:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Armed Services:						
Allocation	0	0	−50	−50	−410	−410
Current Level	0	0	0	0	0	0
Difference	0	0	50	50	410	410
Education and Labor:						
Allocation	−4,877	−4,886	−313	−983	5,017	4,157
Current Level	−4,877	−4,886	−313	−983	5,017	4,157
Difference	0	0	0	0	0	0
Energy and Commerce:						
Allocation	−1	−1	366	362	−59	−63
Current Level	−1	−1	363	359	−139	−143
Difference	0	0	−3	−3	−80	−80
Financial Services:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Foreign Affairs:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Homeland Security:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	−425	0	−500
Difference	0	0	0	−425	0	−500
House Administration:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Judiciary:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Natural Resources:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR RESOLUTION CHANGES—Continued

[Reflecting Action Completed as of October 19, 2007—Fiscal Years, in millions of dollars]

House Committee	2007		2008		2008–2012 total	
	BA	Outlays	BA	Outlays	BA	Outlays
Difference	0	0	0	0	0	0
Oversight and Government Reform:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Science and Technology:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Transportation and Infrastructure:						
Allocation	0	0	125	0	1,525	0
Current Level	0	0	−1	−1	−6	−6
Difference	0	0	−126	−1	−1,531	−6
Veterans' Affairs:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Ways and Means:						
Allocation	0	0	532	532	37	37
Current Level	0	0	541	541	46	46
Difference	0	0	9	9	9	9

FY 2009 AND 2010 ADVANCE APPROPRIATIONS UNDER SECTION 206 OF S. CON. RES. 21

[Budget Authority in Millions of Dollars]

	2009	2010
Appripriate Level	25,558	25,558
Accounts Identified for Advances:		
Corporation for Public Broadcasting	400	0
Employment and Training Administration	0	0
Education for the Disadvantaged	0	0
School Improvement	0	0
Children and Family Services (Head Start)	0	0
Special Education	0	0
Vocational and Adult Education	0	0
Payment to Postal Service	0	0
Section 8 Renewals	0	0

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, October 24, 2007.

Hon. JOHN M. SPRATT Jr.,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2007 budget and is current through October 1, 2007. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, as approved by the Senate and the House of Representatives.

Pursuant to section 204(b) of S. Con. Res. 21, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 1 of the report).

Since my last letter to you, dated September 6, 2007, the Congress has cleared and the President has signed the College Cost Reduction and Access Act (Public Law 110–84), which affects budget authority and outlays for fiscal year 2007. (That act also affects spending in subsequent years.)

Sincerely,

ROBERT A. SUNSHINE
(For Peter Orszag, Director).

Enclosure.

FISCAL YEAR 2007 HOUSE CURRENT LEVEL REPORT AS OF OCTOBER 1, 2007

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous session:			
Revenues	n.a.	n.a.	1,904,706
Permanents and other spending legislation	1,354,965	1,304,022	n.a.
Appropriation legislation	1,472,924	1,536,122	n.a.
Offsetting receipts	−571,507	−571,507	n.a.
Total, enacted in previous session	2,256,382	2,268,637	1,904,706
Enacted this session:			
U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110–28) [1]	−794	9	−166
An act to extend the authorities of the Andean Trade Preference Act until February 29, 2008 (P.L. 110–42)	0	0	−24
A bill to provide for the extension of Transitional Medical Assistance (TMA) and the Abstinence Education Program through the end of 12 fiscal year 2007, and for other purposes (P.L. 110–48)	12	3	0
College Cost Reduction and Access Act (P.L. 110–84)	−4,890	−4,890	0
Total, enacted this session	−5,672	−4,878	−190
Entitlements and mandatories:			
Budget resolution estimates of appropriated entitlements and other mandatory programs	−30	0	0
Total Current Level [1,2]	2,250,680	2,263,759	1,904,516
Total Budget Resolution [3]	2,375,469	2,295,685	1,900,340
Adjustment to the budget resolution for emergency requirements [4]	−124,789	−31,926	0
Adjusted Budget Resolution	2,250,680	2,263,759	1,900,340
Current Level Over Adjusted Budget Resolution	0	0	4,176
Current Level Under Adjusted Budget Resolution	0	0	n.a.

[1] Pursuant to section 204(b) of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. The amounts so designated for fiscal year 2007, which are not included in the current level totals, are as follows:

U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110–28)	120,803	31,116	n.a.

[2] For purposes of enforcing section 311 of the Congressional Budget Act in the House, the budget resolution does not include budget authority, outlays, or revenues for off-budget amounts. As a result, current level excludes these items.

[3] Periodically, the House Committee on the Budget revises the totals in S. Con. Res. 21, pursuant to various provisions of the resolution:

Original Budget Resolution	2,380,535	2,300,572	1,900,340
Revisions:			
To reflect the difference between the assumed and actual nonemergency supplemental appropriations for fiscal year 2007 (section 207(f))	−188	0	0
For extension of the Transitional Medical Assistance (TMA) program (section 320(c))	12	3	0
For the College Cost Reduction and Access Act (section 306(b))	−4,890	−4,890	0
Revised Budget Resolution	2,375,469	2,295,685	1,900,340

[4] S. Con. Res. 21 assumed $124,789 million in budget authority and $31,926 million in outlays from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current level totals exclude the emergency requirements enacted in P.L. 110–28 (see footnote 1 above), budget authority and outlay totals specified in the budget resolution also have been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

Note.—n.a.=not applicable; P.L.=Public Law.

Source: Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 24, 2007.

Hon. JOHN M. SPRATT Jr.,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2008 budget and is current through October 19, 2007. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, as approved by the Senate and the House of Representatives.

Pursuant to section 204(b) of S. Con. Res. 21, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 1 of the report).

Since my last letter to you, dated September 6, 2007, the Congress has cleared and the President has signed the following acts that affect budget authority, outlays, or revenues for fiscal year 2008: College Cost Reduction and Access Act (Public Law 110–84); Food and Drug Administration Amendments Act of 2007 (Public Law 110–85); an act to extend the trade adjustment assistance program under the Trade Act of 1974 for 3 months (Public Law 110–89); TMA, Abstinence Education, and QI Programs Extension Act of 2007 (Public Law 110–90); and an act making continuing appropriations for the fiscal year 2008, and for other purposes (Public Law 110–92).

In addition, the Congress has cleared the Water Resources Development Act of 2007 (H.R. 1495) for the President's signature.

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure.

FISCAL YEAR 2008 HOUSE CURRENT LEVEL REPORT AS OF OCTOBER 19, 2007

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous session:			
Revenues	n.a.	n.a.	2,050,796
Permanents and other spending legislation	1,450,532	1,390,611	n.a.
Appropriation legislation	0	419,269	n.a.
Offsetting receipts	−575.635	−575,635	n.a.
Total, enacted in previous session	874,897	1,234,245	2,050,796
Enacted this session:			
U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110–28) [1]	1	42	−335
An act to extend the authorities of the Andean Trade Preference Act until February 29, 2008 (P.L. 110–42)	0	0	−41
A bill to provide for the extension of Transitional Medical Assistance (TMA) and the Abstinence Education Program through the end of fiscal year 2007, and for other purposes (P.L. 110–48)	96	99	0
A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes (P.L. 110–52)	0	0	−2
Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110–53)	0	−425	0
College Cost Reduction and Access Act (P.L. 110–84)	−326	−992	0
Food and Drug Administration Amendments Act of 2007 (P.L. 110–85)	−3	−3	0
An act to extend the trade adjustment assistance program under the Trade Act of 1974 for 3 months (P.L. 110–89)	9	9	0
TMA, Abstinence Education, and QI Programs Extension Act of 2007 (P.L. 110–90)	815	804	0
Total, enacted this session	592	−466	−378
Passed, pending signature:			
Water Resources Development Act of 2007 (H.R. 1495)	−1	−1	0
Continuing Resolution Authority:			
An act making continuing appropriations for the fiscal year 2008, and for other purposes (P.L. 110–92) [1]	923,554	585,600	0
Entitlements and mandatories:			
Budget resolution estimates of appropriated entitlements and other mandatory programs	547,255	532,903	0
Total Current Level [1 2]	2,346,297	2,352,281	2,050,418
Total Budget Resolution [3]	2,496,764	2,469,698	2,015,841
Adjustment to the budget resolution for emergency requirements [4]	−606	−49,990	n.a.
Adjustment to the budget resolution pursuant to section 207(d)(1)(E) [5]	−145,162	−65,754	n.a.
Adjusted Budget Resolution	2,350,996	2,353,954	2,015,841
Current Level Over Adjusted Budget Resolution	n.a.	n.a.	34,577
Current Level Under Adjusted Budget Resolution	4,699	1,673	n. a.
Memorandum:			
Revenues, 2008–2012:			
House Current Level	n.a.	n.a.	11,313,688
House Budget Resolution	n.a.	n.a.	11,137,671
Adjusted Budget Resolution	n.a.	n.a.	11,137,671
Current Level Over Adjusted Budget Resolution	n.a.	n.a.	176,017
Current Level Under Adjusted Budget Resolution	n.a.	n.a.	n.a.

[1] Pursuant to section 204(b) of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. The amounts so designated for fiscal year 2008, which are not included in the current level totals, are as follows:

	Budget authority	Outlays	Revenues
U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110–28)	605	48,639	n.a.
An act making continuing appropriations for the fiscal year 2008, and for other purposes (P.L. 110–92)	5,178	1,024	n.a.

[2] For purposes of enforcing section 311 of the Congressional Budget Act in the House, the budget resolution does not include budget authority, outlays, or revenues for off-budget amounts. As a result, current level excludes these items.

[3] Periodically, the House Committee on the Budget revises the totals in S. Con. Res. 21, pursuant to various provisions of the resolution:

	Budget authority	Outlays	Revenues
Original Budget Resolution	2,496,028	2,469,636	2,015,858
Revisions:			
To reflect the difference between the assumed and actual nonemergency supplemental appropriations for fiscal year 2007 (section 207(f))	1	1	−17
For extension of the Transitional Medical Assistance (TMA) program (section 320(c))	96	99	0
For the College Cost Reduction and Access Act (section 306(b))	−176	−842	0
Extension of the Transitional Medical Assistance (TMA) program (section 320(c)) (updated to reflect final scoring)	815	804	0
Revised Budget Resolution	2,496,764	2,469,698	2,015,841

[4] S. Con. Res. 21 assumed $606 million in budget authority and $49,990 million in outlays from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current level totals exclude the emergency requirements enacted in P.L. 110–28 (see footnote 1 above), budget authority and outlay totals specified in the budget resolution also have been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

[5] Section 207(d)(1)(E) of S. Con. Res. 21 assumed $145,162 million in budget authority and $65,754 million in outlays for overseas deployment and related activities. Pending action by the House Committee an Appropriations, the House Committee on the Budget has directed that these amounts be excluded from the budget resolution aggregates in the current level report.

Source: Congressional Budget Office.

Note.—n.a. = not applicable; P.L. = Public Law.

THE COST OF SCHIP AND THE COST OF WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. HASTINGS) is recognized for 5 minutes.

Mr. HASTINGS of Florida. Mr. Speaker, I customarily do not find myself on the floor after the close of business, but I am here today because I genuinely find myself in the position of concern that I believe a significant number of Americans share.

We have passed, out of the House of Representatives and the U.S. Senate, a measure that will provide health care to many of this Nation's children who presently are uninsured. The President, exercising his prerogative, vetoed that

measure, and as a result of that, further discussions are ongoing, and the need, again, is to put forward a measure that will provide health care for 10 million children in this country that find themselves and their families without the necessary assistance for medical care.

Mr. Speaker, the President, on the day before yesterday, proposed that there be an additional $49 billion spent in Iraq and Afghanistan.

There's no one in the House of Representatives who does not support the military efforts of the United States military. There's no one in the House of Representatives who is not exceedingly proud of the extraordinary work that the military has done. The military has done what the Commander-in-Chief required of them, and for those of us, as policymakers, expect that they would be able to do.

And quite frankly, one of my colleagues is preparing legislation that talks about the benchmarks that we had originally set for the military and the fact that the military, the U.S. military and the coalition forces have achieved all of those benchmarks. And, in short, we could not arguably say, with the removal of Saddam Hussein or with other temporizing measures that have been brought to various provinces in Iraq, that the military has not been successful. They have been. And when they come home we want them to receive the proud accolades of the American citizenry, and that's every Member of the United States House of Representatives.

But let's compare the cost in that particular effort with the cost for our children's health. Forty-one days in Iraq would provide health insurance for 10 million children.

Now, I don't know all of the nuances of the defense budget, but I have reason to believe that if we did not give all of the money as requested by the President that this particular effort could be run for a substantial period of time.

I might add, all of us are mindful of how stretched the United States military is. But you know something? Without knowing, I would venture a guess that some soldier's child may not be properly insured in this country. Some soldier's child. To my way of thinking, that is absurd. For us to be in the position, a Nation as resourceful as our Nation, a Nation as accomplished as our Nation, a Nation with genuinely the best physicians and nurses and hospitals in the world would find ourselves in this position.

We must pass SCHIP, and we must do so immediately.

□ 1530

HONORING THE LIFE OF SENATOR PAUL WELLSTONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. ELLISON) is recognized for 5 minutes.

Mr. ELLISON. Mr. Speaker, I would like to call to the House's attention that it was on October 25 a few years ago, not long it seems, only days ago, in 2002 that our State of Minnesota lost Senator Paul Wellstone.

Paul Wellstone, Mr. Speaker, was a United States Senator, was a professor of politics, political science, at Carleton College. Paul Wellstone was an organizer of average citizens in Minnesota and helped them to discover their own power and their ability to maneuver the instrumentality of government to work for the benefit of the average citizen. Paul Wellstone was actually the State Chair of the Jackson for President campaign in 1988.

Paul Wellstone was truly a friend of all working people everywhere on the globe. And I just wanted to let you know, Mr. Speaker, that as we approach October 25, and I reflect back upon my own personal exposure and friendship with Paul Wellstone, whose picture hangs in my office right now, that I just wanted this day to go by with us in contemplation of what a true servant leader represents.

Paul Wellstone was a friend of mine. I'm proud to say that he was a political hero of mine as well. I had the awesome benefit of knowing him, and I'll never forget some of the things he said to me. But, among those things was to make sure that you never ever stop listening to the people.

Paul Wellstone was comfortable anywhere he went. He was comfortable in the hair shops, the beauty salons and the laundromats. Paul Wellstone obviously was comfortable in the halls of power in Congress.

Paul Wellstone, wherever he went, was a person who understood that he carried a sacred trust, that government service was a trust that the people of the State of Minnesota entrusted in him, that it was not a privilege, but it was an awesome responsibility, and he never forgot it.

Paul Wellstone was a leader in many ways and was an example to young people like myself. And as I think what his life means to me, means to the people of Minnesota, I have to consider that it is also that awesome responsibility that he laid out there. A servant leader, Mr. Speaker. Not just somebody who was looking to be served but a person who was looking to serve.

Paul Wellstone's favorite color was green, that was the color of his campaign literature, because it symbolized life. And I shamelessly copied it, Mr. Speaker, because I wanted to carry on that spirit of service, of being evergreen, of being ever new, and being committed to the idea that we have to constantly and continuously renew ourselves, our values, our faith, and our consistency when it comes to serving people all over the world.

So, Mr. Speaker, I want to say that whether it was veterans, of whom Paul Wellstone was a tireless advocate, or whether it was students or whether it was the poor in our country, and I will never forget the tour he took around this country to highlight poverty in America, Paul Wellstone could always be found serving people. His loss was a tragic loss.

Only the day before we lost him, he was scheduled to come to my office, and we were going to do some campaigning together. It was a long night, Mr. Speaker, when we heard back the reports as the news reports said that a plane has gone down in Ely, Minnesota, and it was thought to be containing Paul Wellstone and his partner, Sheila Wellstone, and their daughter and several other campaigners. We hoped all night that what we thought might have happened didn't happen, but at the end of the evening, we learned that that tragedy, in fact, did occur. Our worst fears were confirmed when we learned that we lost him, but it was a long several hours before we realized that that tragedy had actually occurred, and we had hoped against hope. I will never forget that night.

Mr. Speaker, as I wind down my remarks, I just want to say that in many ways I have dedicated my service and take great inspiration from Senator Wellstone. I will never forget him, and I hope that this House and Senate never do, either.

30–SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. SARBANES). Under the Speaker's announced policy of January 18, 2007, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the majority leader.

Mr. MEEK of Florida. Mr. Speaker, it is an honor to address the House once again.

I share the sentiment of my colleague in recognizing Senator Wellstone. He was definitely a cornerstone here in this building for public service and really was a student of many of our great leaders of the past and gave voice to health care in a way that no other can do it.

As you know, in the 30-Something working group, we come to the floor every day, or just about every day we are in session, to share with the Members the things that we have to continue to work on here in the House in a bipartisan way and also share with the Members the importance of making sure that we stand up on behalf of those Americans that need our assistance.

At this time, Mr. Speaker, I would like to yield to my colleague to address the House for as long as he would wish to do so.

Mr. LAMPSON. I thank the gentleman for yielding to me and for allowing me to take a minute or two to talk of a person who has done something significant for our country.

Mr. Speaker, it is a distinct honor and a privilege to be a Member of this House and to be from the great State of Texas and to have in my district the home of American manned spaceflight,

the Lyndon B. Johnson Space Center, or JSC as it's called. The largest industry contractor at JSC is a company called United Space Alliance, or USA, and it operates the space shuttle for NASA and helps train our astronauts, who also call JSC home.

For more than a decade, the head of USA has been a gentleman whose name is Michael J. McCulley. The company's president and CEO, Mike has led his company through some of the most difficult, and some of the most exciting, days in the history of the space shuttle. In just a few short weeks, he will step down from USA to begin a well-deserved retirement. He probably won't go far away. I rise today to salute this good man and his leadership.

Mike came to his duties at USA from the front lines of space exploration. As a shuttle pilot, he has flown *Atlantis* into Earth's orbit and seen firsthand the majesty of this planet from space. But even before that, Mike was a naval aviator and test pilot, having operated more than 50 different types of aircraft, flown from the U.S.S. *Nimitz* and the U.S.S. *Saratoga*, and at the beginning of his naval career even served aboard atomic submarines in the depths of the oceans. That, my friends, is a true explorer of both inner and outer space.

People like Mike McCulley show that in some of our most challenging times, there will be those ready and willing to serve the American people, placing their lives at risk for exploration, discovery, and achievement. Only through that kind of courage, that kind of selfless service, will our Nation's scientific advancement in space be assured and be continued.

On behalf of this Congress of the United States of America, I hope that Mike and his wife, Jane, and their family will accept our thanks and our best wishes on his well-deserved next phase of an exciting, all-American life. Congratulations, Mike.

Mr. Speaker, if I may continue while our colleague who has control of the time has gone to make a critical vote in the Ways and Means Committee, in speaking about Michael McCulley, there are two other things I would like very much to raise as an issue. I started speaking about space because Mr. McCulley is one of the great Americans who has played a significant role in moving us forward technologically in this world, and I am concerned right now that we are not moving ourselves, as a Nation, forward in science and technology, engineering and math studies for our youth. We are not challenged, it seems, to have the same kind of commitment for research and development, for exploration as we once had. And, unfortunately, other nations are stepping up to the plate to take our place. So it is my hope that we will find a new and renewed interest in funding space exploration and making sure that NASA has the moneys necessary to perform the tasks that it is required to do as a science organization for our Nation.

I find it fascinating that in the early 1960s, when we were having difficulties as a Nation, when our Nation happened to be at war and we were having civil strife and were having financial problems in the 1960s; yet John Kennedy, a new, young, enthusiastic President, stepped up to the plate and challenged us to go to the Moon, doing something that not many people thought was possible. And at the same time many of the naysayers and doubters were saying, how can we possibly do that financially? But we made the commitment. We put the money where it was necessary. And our young people learned how to do it and made an unbelievable success for us and changed the world, created new industries.

The information technology industry has grown from our need to be able to communicate with people in space. We have seen medical advances to the extent that lives are now being extended. People are living a higher quality of life because of what we have learned, what the technological advancements have been because of our involvement in space. All of these things changed America and, to a large extent, changed the world.

But in the last several years, we seem to have had a continuous slackening of the support and the commitment that we made or we saw in earlier years in space. For example, during those Apollo years in the 1960s, when we were going back and forth to the Moon, and in the early 1970s, 6 percent of the Nation's budget was committed to NASA. Today, that number is around six-tenths of 1 percent, 10 times less. So we have expected a major science agency of this government to do more but to do it with significantly less, and we can't continue to do that.

Now we are starting to see the impact of other programs that we have learned along the way. We have critical satellite systems that fly overhead in space that give us information about weather and about Earth science, about the environment of the Earth. Those satellites in many instances are getting old. As they get old and cease to operate, we must have something to take their place, and that something must be in place before these existing satellites die or else there will be a gap in knowledge and information. And a gap in information, for example, on the gulf coast, where I live and where Mr. MEEK lives, would put people in harm's way. They will not have the advance warning of an approaching storm and be able to prepare their property or prepare their families to get out of harm's way. Those critical areas are important for us to acknowledge, to commit to, to believe in, and to fund. A gap in that knowledge means that our families will not be as safe as they were with the knowledge.

As we weaken our commitment to science and to NASA and we lose some of the hope that these systems will continue to operate, and just think if our information technology satellites went out of service, what would we do without our PDAs? What would we do without our Blackberrys and our cell phones? If they stop working, then we stop communicating, and we communicate with the world.

So it is my hope that we will find a renewed commitment and fund NASA to a greater extent than what we have been doing so. It is my hope that the billion dollars that the Senate has found to put into the Commerce, Justice, and State portion of our budget, which we will be taking to conference very soon, will find the same kind of support in the House of Representatives that it has found in the Senate and that we will support this commitment so that, instead of having to choose between doing the work for space exploration or science, we can do both because it is the commitment that the people want us to make to give them the hope for a better tomorrow, to keep us growing with our quality of life, to keep us having hope that our children will go and get the education necessary to do the things that will give us the kind of lives that we have strived for for such a long period of time.

Mr. MEEK, I appreciate your yielding to me. I got to talk about Michael McCulley, who is a friend of mine, who has led a major space effort for this country for a long period of time and also to just sort of put forth some of my passion, which is to make sure that we get NASA funded properly out here on the table so that we can continue that dialogue.

I don't know what your topic was, but thank you for letting me butt in, and I would be happy to answer any questions, if you have them.

Mr. MEEK of Florida. I am just very pleased that you came down at the time that you did come down and share with us about how important the NASA program is, especially to not only the development of the country but to our young people and those that have contributed and dedicated their lives to helping us along the way in the sciences, not to compete against States but to compete against other countries as it relates to the forward lean that we have to have.

We are going to talk about children's health care and a number of other issues, but we are glad that we kicked off with the NASA program.

Mr. LAMPSON. The Children's Health Insurance Program is critically important. It's critically important to giving children the opportunity to grow up healthy enough to want to do well enough in their early years in school so that they will have an opportunity to go off and study math and science and engineering later on. It's a big deal for all of us.

□ 1545

Mr. MEEK of Florida. You're 110 percent right. And being from Florida, as you know, we have a number of NASA assets in Florida. And even when I was

in the Florida legislature, we were very supportive of programs that gave kids a jump start in the math and sciences to be eligible for NASA programs and other private programs that are out there as it relates to innovation and space.

Mr. LAMPSON. Well, I thank you for your commitment. I thank you for all the work that you have done to further the Children's Health Insurance Program. This body has come very close to making it law, and it's my hope that we will succeed very quickly to make sure that the 10 million children in this country who do not have access to this health care are covered.

So thank you for your good work, and I look forward to continuing to work with you to make it a success.

Mr. MEEK of Florida. Thank you so very much. And as we speak, there are those in the Capitol dome trying to make sure that children's health care gets its fair share from this country of ours.

I would just like to share with the Members some of the good things that are happening under the Capitol dome.

We have passed, Mr. Speaker, a number of measures that have been bipartisan and major as it relates to legislation. The 9/11 Commission recommendations are something that the House and Senate both passed, and that was signed into law. The largest college aid expansion since the 1944 GI Bill saved, on average for every student, I would say almost every American because, as it relates to college loans and student loans, the responsibility for paying many of those loans back fall back on parents and grandparents. So that's $4,400 in interest that the American people don't have to pay.

The first minimum wage increase in a very long time, double-digit years, was passed by this Congress. And it was because of the Democratic leadership and some of our friends on the Republican side that voted for the passage of that bill that we now have an increase in the minimum wage.

Innovation Agenda to promote 21st century jobs, passed by this House, signed into law. The Reconstruction Assistance Program for gulf coast disasters and hurricanes was passed and signed into law. The largest veterans health care increase in the 77-year history of the VA passed off of this floor and is still in a holding pattern as it relates to that becoming law or empowered by not only the President but the legislative process. Also, the landmark Energy Independence and Global Warming Initiative that was passed by this Congress.

Now, I think it's important that we look at the record-breaking roll call votes that have been taken thus far by this Congress and the work philosophy that we have in the 110th Congress versus previous Congresses. And you know that two of the initiatives that have passed on a bipartisan vote that I did not mention that the President has vetoed was the expansion of the life-saving medical research on stem cells that passed in a bipartisan way by this House and by the Senate and was vetoed by the President. And the most recent veto is the one that's dealing with health care for 10 million children and working families that passed off this floor on a bipartisan vote, came 13 votes shy last week of overriding the President's bad veto, had the votes in the Senate to do so, but it's something that we're working on right now, Mr. Speaker. And that's one of the reasons why I came to the floor today, and my other colleagues that will be joining me a little later on, to talk about the SCHIP plan.

I can tell you, as we stand here, Mr. Speaker, to address these issues dealing with children's health care, one said, when I was on the floor last week, well, the Congressman is talking about health care. The CHAMP, or SCHIP, bill is dealing with insurance. Well, I can tell you, when you're talking about insurance, you're talking about health care. If you don't have insurance, you're not going to be able to afford health care, especially the preventive care that the CHAMP bill or the SCHIP bill calls for. So, if you take the opportunity to go meet the average American that has a child that is not covered under health insurance, you're going to find an individual who will share with you that, without it, they can't go to many of the doctors offices where they can at least pay a small fraction or at least afford preventive care and the annual checkups that children need.

We're in a situation right now, Mr. Speaker, that we have children, if this SCHIP bill or CHAMP bill is not reauthorized, we're going to have children without health care, without health insurance. Whichever way you cut the cookie, they're going to need a way to pay for health care or you might as well look forward to parents going down the drugstore aisle trying to correct the sniffles and trying to head off fever and trying to head off other situations that young children run into. But those are just the minor issues. What about the bigger issues that, if detected early, can be prevented if we have the kind of health insurance that would be helpful for children?

As we start to look at a re-approach on this bill after the President's veto, I know that the Speaker and others, and in reading through not only the newspapers but also in meetings that have taken place, we are still holding hard on the 10 million children insured. Now, I think that's very, very important that we head in that direction and that we stand firm on the 10 million.

Last week, I was sharing with many of my Republican colleagues on the other side of the aisle, those of whom were in the 13, because there are some that are saying that they are with the American people, they don't necessarily have to be with the Democratic Caucus because this is not about the Republican Conference or the Democratic Caucus, this is about children having an opportunity to have health insurance to be able to have quality health care, and that's what it's about. And I want to commend my colleagues that are on the other side that have voted on behalf of not only their districts but young people in America and their families.

So, now we're down to correcting a wrong. Last week, I talked about the story, Mr. Speaker. In all great pieces of legislation and every initiative there is always a story before you get to the glory, and we're still writing the story. And I think, as we go into the final chapters of this SCHIP debate here in the House of Representatives and the Senate and we deliver another product to the President of the United States, I think it's important for those who voted against overriding the President on this issue, think about what you have done. You might not have felt the full brunt of the displeasure of the American people for the Congress, where many of our children are insured because we have health insurance and we have the kind of insurance that will cover our children, and that there are families that don't celebrate the same thing that we do, that there is going to be a great level of displeasure out there. And I want to say that out loud because I want to make sure that Members understand exactly what they're doing.

No one came to Congress to vote against health care for children. I don't think anyone jumped up and said at any political forum or debate, when they were debating, need it be a Republican primary or a Democratic primary, to say, ''You know, one of my goals when I get to Congress is that I'm going to vote against children's health care.'' I think they wouldn't have even made it to the Halls of Congress. I'm speaking to that individual Member that decided not to, whatever the situation may be.

I haven't seen, in my 14 years of public service, Mr. Speaker, a bill that I am 110 percent in support of and agree with every section in that bill. When we put together legislation, there is always something in the bill that you wish you could have more of or not have at all in the bill. And it's very unfortunate, especially when we're in a body of compromise, when we're talking about children that will become uninsured if we don't pass this bill, I think it's important for us to realize our place in this debate. I commend those that voted. You were supposed to vote for that. I'm glad you did. I'm glad you voted for the SCHIP program.

Let me just run some numbers. One may say, well, we're concerned about cost as it relates to providing insurance for children to have health care. Well, one day we're going to compare this as it relates to war, because a lot of folks get into the chest-beating posture or session when it comes down to the war in Iraq. And we're concerned about what happens with children tens

of thousands of miles from the United States of America. I'm concerned, also. But I'm really concerned about what is happening with children here in the United States. And I think it's something that we all should pay very, very close attention to.

One day in Iraq costs $330 million. That will cover 270,000 kids. One week in Iraq costs $2.3 billion. That's 1.8 million kids who can be covered under the children's health care bill. One month in Iraq is $10 billion. That's one month that can cover 8.1 million children as it relates to health care. And the cost of 40 days in Iraq is $12.2 billion. That will cover 10 million kids' health care. I think it's important to look at just over one month that will cover a full year of health care for 10 million children. Just a couple of days over the average month will cover 10 million children.

So, when we start lining our priorities up of where we stand as a Congress, and I'm talking to the real minority here because there are very few Members of this House that are voting opposite of where the American people want us to be, and that's providing health care. Polls have shown here in the United States over 80 percent of Americans are saying that it's important for us to have children's health care. So, you have a very small percentage saying that they don't agree with this, and maybe they need more information.

But when you have Members of Congress, and we're talking about lights on, lights off, health care for 10 million children or not, that's a simple decision for one to make. If you have issues with the application of it, it has to be better than what we will not have if we don't reauthorize it and reauthorize it for 10 million children.

I think it's important that you understand a number of the coalitions that are here. And I'm spending the time on the floor, Mr. Speaker, to share this with the Members because this is, A, what do we look for in legislation? We look for bipartisanship. That's what the American people always say. They would love for Democrats and Republicans to work together. You have that in this bill. I mean, for this to be a partisan body, you have to look at the significance of having a bipartisan piece of legislation with major Democrats and major Republicans that are on board on the legislation.

You also have to look at the second issue that I think is very, very important; the fact that it passed both House and Senate overwhelmingly. And you have to look at that as a component and a proof to the leadership and the reason why we have to insure children, 10 million children in the United States of America. That's very, very significant. Don't let anyone belittle the work that has happened on both sides of the aisle with Democrats and Republicans sending a bill to the President.

I would also add on to that point the fact that the President vetoed the bill. And you had a commitment from the Senate, the United States Senate, that they would override the President of the United States on this issue because he's wrong. That's what is so good about our democracy. That goes back, not just a bill on Capitol Hill, it goes back to those days that used to come on Saturday morning to let young Americans know how this process worked. And then in the House we took the vote and we fell 13 votes short of overriding the President. That's very, very significant.

I came last week and commended those groups, those nonpartisan, volunteer groups that are dealing with children's diabetes, that are dealing with a number of issues, polio, the doctors that came to Capitol Hill, the March of Dimes, all the different foundations that are out there doing good things and passing good information out and encouraging Members to sign on and get that vote. We couldn't have had the kind of vote that we had last week if it wasn't for those outside organizations and Americans and parents and grandparents and children saying we should have health care.

□ 1600

When they see the kind of numbers that I am reading off, spending $330 million in Iraq in 1 day, that's just 1 day. I can get down to $3,300 and change every second that we are spending in Iraq. And you have folks here that are mumbling and grumbling about the cost of an insurance bill that will provide health care to 10 million children, we have 40 plus Governors out there in the 50 States that are out there saying that we need this bill. I want to break this down because I want to make sure that the Members, I don't want to use a lot of acronyms, I don't want to get into a lot of programs and all of that because I'm on the Ways and Means Committee and there's enough acronyms there to talk about health care. I'm on the Armed Services Committee and there is a plethora of acronyms that we could use there and all kind of big words. I want to make sure that everyone understands what it comes down to. You are either with insuring 10 million children or you're not. Period. Dot. There is no in between. There is no ''maybe I need to take more consideration'' or ''maybe I need to look at this a little further.'' We have already taken one vote that has passed the House overwhelmingly. We have already taken a second vote that fell 13 votes short of a two-thirds vote to override the President of the United States. And now we're about to take another vote. So it's almost like three strikes and you're out.

Mr. Speaker, I have been on this floor now coming on 5 years, speaking not only to the Members but also making sure that staff and everyone else understands the significance of every vote that we take. And if this was about politics, I always say it, look in the CONGRESSIONAL RECORD time after time again, if it was about politics, I could just sit in my office and let just the electoral process take its course.

I do believe that Members who are not voting for children's health care are making a career decision. That's what they're doing. Now, if this is the last day of school for Members and they're retiring after this term that is a whole other thing. But for those who want to continue to serve not only their districts and the American people, they have to pay very close attention to the vote that they are taking here on this floor. Insuring 10 million kids is bigger, in my opinion, than winning some sort of, you know, one or two political races. I am not into that. I was sent here to Congress, and many of us were sent, all of us were sent here to represent the folks back home. And I guarantee you, the folks back home are not saying, ''Please don't insure children. Whatever you do, Congressman, make sure you don't insure 10 million children or 5 million children. Just make sure you don't do that, and you have my vote.'' There is not anyone back there saying that. And so I think it's important for us, when we get into this process, I think it's important for us to share with Members what we are here for. Like I said, once again, there are some things in the bill that I don't agree with, but when you start talking about the insurance for children that my children celebrate, I wasn't elected for me to have my children to have health care and I look at my constituents and say, ''Run for Congress one day and you can be like me.'' That's not what it's about. It's about us being able to stand for them.

I think it's also important to look at even with some of the media accounts about some of the things that are going on here in Washington that we are working hard on, the Democratic side of the aisle, because Americans voted for change, Mr. Speaker. They didn't vote for the status quo. Republicans had the majority last time. There were Democrats and Republicans and independents who said, You know something, we gave you an opportunity. My kids and my grandkids and the fiscal situation this country is in is more important than my party affiliation. And we have seen throughout the country, Republicans say, ''I'm going to vote for the Democrat this time because I want to see change.'' Now that change is here and I read off a list of bills that were passed in a bipartisan way. These are not just Democratic bills, we beat our chests and say, ''Not one Republican voted for it.'' Yes, there are one or two there. But the majority of the major bills that have passed have passed with some Republican votes, and that is important to the process.

USA Today, War Costs May Total $2.4 trillion. When you look at the cost of the war in Iraq and Afghanistan, it could cost $2.4 trillion the next decade or nearly $8,000 per man, woman and child in this country according to the Congressional Budget Office that is

scheduled for release and that took place here today earlier. A previous Congressional Budget Office estimate put the war cost at more than $1.6 trillion. This one adds to the $705 in interest. And if you take into account, Mr. Speaker, as we continue to go on as it relates to the war in Iraq, as we look at the borrowing from foreign nations and then we turn around and we also bring a bill, I'm going to add to those points, we bring a bill that we show how we are going to pay for the bill so that we don't have to continue to borrow from foreign nations, so that we don't have to continue to see our kids having to pay some $8,000 per man, woman and child because of the decisions that were made here on this floor in previous Congresses.

So how do we have a paradigm shift? Well, we come about bringing about that paradigm shift through good policy and bipartisanship. So I am speaking to the 13 that voted against, helped us fall short of that, of overriding the President. It could have been a different day the following day after that vote, but it wasn't because we had some of our Republican friends not voting with us.

I am going to put a pin there, and I am going to allow my good friend from Ohio (Mr. RYAN). First of all, I just want to say, sir, that I'm sorry about your Indians. I'm really sorry. As you know, I e-mailed you and told you that I was with you. Being a Dolphins fan, I'm switching sports now, but I'm having a rough year, and I wanted someone to have some joy that I knew. And I know you, sir, and I know you're excited about your Cleveland Indians. And they fought hard. But I'm sorry, sir, that they didn't make it through the process.

Mr. RYAN of Ohio. We're still struggling. There are a lot of emotional issues that Cleveland Indians fans have had for a long time. And then you factor in the Cleveland Browns and the drive and the fumble and Michael Jordan singlehandedly beating us a couple of times in the playoffs and you add this to the mix, we have some psychological issues we need to deal with, Mr. Speaker, and hopefully we will be able to work through them.

But today is the day that we are talking about the excess in spending on the war. We hear a lot back in our districts, I'm sure you do in the Seventeenth District in Miami, and I hear in the Seventeenth District of Ohio, we hear about the rising cost of health care. We hear about the rising cost of education. We hear the problems that we have incurred in this country because we haven't invested into developing alternative energy sources in the United States of America, and we haven't developed them fast enough.

We have all these issues that local communities deal with, Community Development Block Grant money that they get from the Federal Government that local communities can build sidewalks and roads and sewer lines and they can use all this money. That is Federal money that works its way down to local communities. And when we look at the needs of local communities, every single day in the paper in Ohio, it is water lines, it is sewer lines. In the summer it is what sports do we have to ask the kids and the parents to pay for this year? Why are we cutting the art programs? Why don't we have enough money to handle the septic and the sewer systems in our local community? For years, the Federal Government continued to make those investments. And what we hear now coming out of the executive branch, Mr. MEEK, is that we don't have the money to do it.

Now, we are talking about providing health care for 10 million kids, poor kids, who live within 200 percent of poverty, a family of four making maybe $40,000 a year. What we are arguing on our side is that we think it is in the best interests of this country, all of us together, not one family or this family, all of us, is that if we provide and pay for health care for these 10 million kids and their families, because we believe on this side and our friends on the other side who voted with us, not the President, we believe that if we make this very small investment of $35 billion over 5 years, that we are going to have a healthier country, that we are going to have kids who aren't sitting in the classroom getting other children sick, that they are going to be able to concentrate and focus.

We sit here and we say, ''We need more people to major in math. We need more people to major in science. We need to compete with the Chinese. They graduated thousands and thousands of more engineers than we did in the United States of America.'' Part of that is we need our kids to be healthy. We need them to be able to concentrate in school, not sneezing and getting colds and pneumonia and not missing classes. We need them to be healthy. And that is the basic concept behind the State Children's Health Insurance Program.

To have the President, after he began a war that is going to cost us $2.4 trillion, with a T, tell us that we don't have enough money to provide health care for these 10 million kids is a complete outrage and doesn't really make any sense. Now, I think it is important, Mr. Speaker, for the Congress to know and to be reminded that over the past 6 years, with a Republican President, a Republican House and a Republican Senate, that this President and that Congress, those Congresses have borrowed more money from foreign interests than every President and Congress before them combined. Over $1 trillion in foreign money. Now, the same Congress and the same President asked to raise the debt limit, meaning we can go out and borrow, as a country, more money, five times he asked to raise the debt limit. Then, on top of that, the final number is the increase of the debt under this President is $3 trillion. So he raised the debt by $3 trillion, raised the debt limit five times. Now we have a war that is going to cost us $2.4 trillion, with a T, and he says, ''We don't have enough money, Mr. Speaker, to provide health care for 10 million kids at $35 billion, with a B, over 5 years.''

For 40 days in Iraq, we could pay for 10 million kids to get health care for a whole year. Forty days in Iraq. And what is the investment going to get us? It is going to get us healthier kids. It is going to get us kids who can concentrate and pay attention in school. It is going to save us money in the long run because we are not going to cart these kids off to the emergency room 2 weeks later with pneumonia when we could have taken care of them with maybe a small prescription. Those are the kind of prudent investments that we want to make in this country. Those are the kind of investments that we should be making in this country.

We talk a lot in this country about what are we going to do in the next century? We lost manufacturing, and we are not sure what the new economy is going to look like. But there are some things we know about, Mr. Speaker. We know that our kids in Niles, Ohio, or Youngstown, Ohio, or, Miami, Florida or wherever you are from, are competing more directly with the students in China. We know that our kids are now competing. The old steel belt and the old rust belt in Ohio is Cleveland and Youngstown and Akron and Pittsburgh. For the longest time, those cities used to compete with each other and those businesses used to compete with each other. Now this whole region is competing with Shanghai. And our kids are competing more directly with those kids in China, India and all over the world, 1.3 billion people in China, 1.2 billion people in India. We only have 300 million people in the United States of America. We are at a real disadvantage when it comes to just mass numbers. And democracy is not always easy, either. If you want to open up a factory in China or you just clear a neighborhood out, you give everybody 25 bucks, they give you a week to get out. There are no environmental laws. There are no worker rights. It just happens. The government comes in and moves everything along. Democracy is sometimes a little more difficult, in a good way. We have rights; property rights, human rights and all kinds of different things that citizens in China don't have.

But my point here is this, we only have 300 million people. So if you look at what the Democratic agenda, the 6 in '06 and what my friend from Florida has been stating, what we have been trying to do is very, very simple. We're trying to invest into those 300 million people so that they're healthier, so that they're more educated, so that they are able to live the American dream. Now, no one here is saying that everyone needs to be a winner. We understand that life is life. There are winners and there are losers. But as a

country, we want to make these investments because we all benefit from it. We all benefit from that.

□ 1615

The investments we are making now, just look at our agenda now. One of the first things we did, we raised the minimum wage for the first time since 1997 so that we are lifting people up. One of the second things we did is we reduced the cost of college education, or tried to. We cut student loan interest rates in half. So when you go out and borrow for your kids to go to school or a student borrows next year to go to school, the interest rate will be 3.4 percent, as opposed to last year when it was 6.8 percent and that money was going to the banks. They were making a heck of a lot of money off of it.

Mr. Speaker, we are saying keep those rates low; let's improve access so that everyone can go to a community college and get a skill or they can go off to college and get an associate's degree or a master's degree or Ph.D. so that they are educated to compete. What we also did was increased the Pell Grant by $1,000 over the course of the next 5 years. Is that as much as we want? No. Absolutely not. We are not even close. But we are moving in that direction. It's tough, when you have a war that is costing you $2.4 trillion, to come up with any money to make these kinds of investments. But that is what we wanted to do, and we have changed the direction in regard to college education.

Now, if you're a kid going to school in Ohio, where we had the new Governor come in and he froze college tuition for 2 years so there will be a zero increase next year and a zero percent increase the following year, if you add that to what we have done with the student loans and the Pell Grants, you're talking about saving average families thousands and thousands and thousands of dollars. An average student loan, because of the interest change we made, an average family will save $4,400 over the course of the loan.

Now, we are not coming out here beating a drum, saying we have got to cut taxes, we have got to cut taxes for millionaires. We are saying if you send your kid to school and you take out a loan, we just saved you $4,400. If you have someone in your family, or one of your students, kids that are going to school that are working for minimum wage, they got a pay increase. If you're utilizing the Pell Grant, you're going to get more of that. These are good, solid investments we've made. In addition to this, we have the State Children's Health Insurance Program. So these kids have opportunity.

Now one of the other things that really isn't on the agenda to talk about, but the Senate just passed it last night, we are trying to pass it again through the conference committee and hopefully get the President to sign it, but the President said he was going to veto it, is the Health and Education bill, where we are making investments to build community health clinics so that people who don't have health insurance now can at least go to a health care clinic and get some preventive care.

Mr. Speaker, I just found it stunning, and I think a lot of other citizens of this country did as well, and I know many Members of Congress have found it stunning too, when we were having this big debate about children's health and the President said, Well, they have health insurance. They can go to the emergency room.

I found that absolutely stunning that the President of the United States, in 2007, his solution or lack of solution is to say that these kids could just go to the emergency room. Now, I am sorry, but that is unacceptable. Not only is it bad economics, it is unacceptable from a moral position.

It has been frustrating, but I want the American people, Mr. Speaker, to understand what we have done through the House is passed legislation. And my friend with the great reform of the Small Business Administration, our friend from Pennsylvania, creating an angel investor fund and basically retooling the SBA for the 21st century in a high-tech economy, the things that we have done have been investments into our country and into our people.

Now, I'm sorry. Giving $100,000 tax break to someone who makes millions of dollars a year is not benefiting anybody because they are not even taking that money and investing it back into our country. They are investing it probably in China and India. What we are saying is we are going to make these investments.

Mr. ALTMIRE. Mr. Speaker, I wanted to follow up on a couple of points that the gentleman from Ohio mentioned, one of which was this idea that, well, these kids who don't have insurance can just show up at the emergency room. What I hear people who are of that mindset say is this SCHIP program is too expensive, there's not enough money to cover these kids and, therefore, I don't want to pay for them; somebody else can worry about that, send them to the emergency room.

But here's the problem with that way of thinking. We do pay for it when they show up at the emergency room. They show up there, they get covered, and, as the gentleman indicated, an earache that could have been knocked out with antibiotics turns into something more serious, a cold turns into pneumonia. Other situations that could be easily treatable, they instead turn into bigger health problems. We all pay for that because, in this country, when a hospital has uncompensated care or debt based on the fact that people don't have insurance but still show up for treatment, we are the ones that pay for that.

The reason that when you go to a hospital an aspirin will cost $15 is because of the cost shift that takes place when somebody, one of these children without health insurance shows up at the hospital, usually in the least cost effective way possible in the emergency room. So that is what happens when the President or someone else says, Well, let's just send them to the emergency room and everything will be fine. We are paying for that. That is why health insurance premiums go up, that is why costs are skyrocketing, and that is the cost shift that takes place.

On another point, I wanted to mention, and we are talking about our successes, some of the things that have happened in this Congress, I wanted to relay a story that took place over the weekend. I was holding a town hall meeting in my district and we were taking questions and someone asks the question, Well, when are you guys going to do something about the cost of college? I have got a kid in college. When are you going to lower the cost of higher education?

I said, That is a great question and I want to apologize to you because you should be aware of the fact that we have done something about that. This is not something that is on the drawing board or just passed the House or is awaiting signature. This has been signed and enacted, $20 billion of relief for parents and students for higher education. The largest expansion of higher education funding since the GI bill in 1944 passed this House, passed the Senate, and has been signed into law by the President.

Maybe we haven't done as good a job as we should be doing in getting the message out. This is a major legislative victory for this Congress and for this country. We cut in half the interest rate on student loans, from 6.8 percent to 3.4 percent, which, by itself, if we did nothing else, would save the average student borrower in this country $4,400 by itself.

But that is not all we did. We increased Pell Grant funding to $5,400, the largest increase and the highest amount available in history, in the history of the Pell Grant program. We increased funding for Perkins loans. We increased the availability and the types of students and the types of schools that can qualify for Perkins loans. Just as important, we capped at 15 percent of discretionary income the amount that the student borrower will be required to pay in paying back their loans.

So they will not be forced into debt over their heads, and they will be able to have a more manageable debt burden when they graduate and when they start in the workforce and their income is not that high. These are good achievements. That was all in that bill.

So what I said to the person who asked this question was, this was something you took the time to show up at the town meeting to ask this question. This was the number one issue of concern to you, and that is why you asked me this question. And we did something about it. This Congress has

helped you on the issue that is of the greatest concern to you. It is going to help millions of Americans, parents and students around this country, afford higher education, afford the cost of college.

We have had tremendous legislative success. As you have talked about, more days in session, more rollcall votes, more legislation passed, than any Congress in recent history, maybe in the history of the country to this date. So we have legislative success.

I wanted to not let the time go by without talking about that College Cost Reduction Act, because that is going to affect people's lives.

So I yield back now to the gentleman from Florida, Mr. MEEK.

Mr. MEEK of Florida. Thank you, Mr. ALTMIRE. The good thing about it, and Mr. RYAN and I were in a meeting the other day, and I think it is important, very important, and I was sharing a little earlier today about giving thanks to those out in the field. And when I say ''those out in the field,'' those Americans out there, because the President said he wasn't going to sign the College Interest Rate Reduction Act or what have you, the $4,400 that Mr. RYAN alluded to.

If it wasn't for the American people pushing for that, it wouldn't have happened. If it wasn't for the American people saying that we wanted a minimum wage after double-digit years of no minimum wage, it would not have happened. If it wasn't for the American people stepping up at the last given Tuesday when we had the election for this House saying that we wanted to move in a new direction, it would not have happened.

I think it is important for us to look at this American spirit rising up again on the children's health bill. When we look at health insurance and we look at health care for children, the American people are going to make that happen, because hopefully we will have an opportunity to vote on that bill again. Hopefully after taking the number one vote that was a bipartisan vote, sending a bill to the Senate, the Senate sent a bill to us, and we voted out the bill and sent it to the President, and the President, two votes that took place, overwhelmingly bipartisan, the President vetoes the bill, okay? And now you are going to have a real third opportunity to vote again.

I don't know if those that have voted against the previous bills, if they want to continue to do it, because their excuse is to say, Well, you know, there was something I didn't understand on that first vote. Congressman, you mean on the second vote you still didn't understand? And then on the third vote? Well, maybe you are not in the business of making sure that children have health insurance so they can have health care.

So I am hoping that we can come together in even a greater way in passing a children's health care bill that covers 10 million children. I think it is important. I agree with the Speaker. I am glad she has put her foot down and this Congress has put our foot down and said we are going to do this. Because at the end of the 110th Congress, there is not going to be a short list of accomplishments; there is going to be a long list, because there has been a drought for a very long time to bring the issues and concerns back to those who attended your town hall meeting.

Congressman, what are you doing for the district? What are you doing for us? Yes, it is wonderful about the war. We know that is going on. All of us share in making sure our men and women have what they need to have and all of those different things, but what are you doing domestically? How does this affect my children?

Mr. RYAN talked about someone is going to sit next to a child that doesn't have health care, and if that child is sick, you can have all the health care in the world. Your child is coming home and they are going to bring whatever that other child has into the household and then everyone is sick, and now we have employers without employees, and we can go on and on and on. It is a domino effect. I think it is important that we continue to highlight that.

But I appreciate the fact you all have brought light to all of this. Even Mr. RYAN was talking about a democracy. I think a democracy is a good thing. I think it is playing out well. Even though we fell on the short end, 13 votes short of overriding the President, a major accomplishment with having the Senate vote in an overwhelming way and having the votes to override the President, and having a supermajority vote here in this House based on the strong Democratic leadership of even bringing the issue to the floor in the first place.

So I am excited about it. I do have faith in the American spirit. I know it will rise up. Those that have sent us here, those that do not work in the Capitol, those counting on us to do the right thing.

Mr. RYAN of Ohio. I think it is important, too, to recognize we are just beginning. I think we have moved into a new direction. We are clearly not done. We are clearly not close to being done. No one here is satisfied. No one here will say, This is great; we have really accomplished everything we wanted to. We can go out and turn out the lights and let someone else finish the business.

We have got a lot more to do, if you look at what we want to do with alternative energy, if you look at what we want to do as far as continuing to try to reduce the cost of education, K–12 and whatnot.

Mr. MEEK of Florida. We are out of time, Mr. RYAN. I want to thank Mr. ALTMIRE and yourself.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

□ 1630

MANAGING PUBLIC LANDS

The SPEAKER pro tempore (Mr. MCNERNEY). Under the Speaker's announced policy of January 18, 2007, the gentleman from Utah (Mr. BISHOP) is recognized for 60 minutes as the designee of the minority leader.

Mr. BISHOP of Utah. Mr. Speaker, I appreciate the opportunity you have given us to speak for awhile about public lands and about how the public lands are treated and how the future will and will not deal with those public lands.

One of the facts that we have to deal with is how a government deals with property, whether personal property or public property, is a window to the soul of that government. Personal property is tangible and civil liberties are intangible, but both of them are at the center of the historic purpose of this American government, and the preservation of one is indeed the precondition for the preservation of the other.

Sir Henry Maine once wrote a book called ''The Village Communities'' in which he said: Nobody is at liberty to attack several property and to say at the same time he values civilization. The history of the two cannot be disentangled. The desire, the use of property, whether it is on land or whether it is the use of public property, that desire is what raises mankind from political slavery.

One of the things that we do not often enough around this place is to consider why we are doing what we are doing. Indeed, one of the concepts that is there is that we do what we do because we have done what we always did; and sometimes when you take a moment to look back and reflect on that, in this particular Congress we have been inundated with laws and proposals which have huge and significant impact on personal and public property in the United States.

Mr. Speaker, one of the things I would like to do is try to go through with several Members who are in the West, public land States who understand firsthand the responsibility and relationship of this, specifically what we are doing in these particular areas.

One of the people I would like to address some of these issues deals with the public property in our forests. As you know, we are having major fires in this country, and the Speaker on this floor said now is the time we need to do what is right.

I would like to yield some time to the gentleman from Oregon (Mr. WALDEN) and simply ask him to address that, of what can this Congress do to make it right, especially when we deal with our forests and our processes for the future of our forests to make them healthier or better.

Mr. WALDEN of Oregon. Thank you, Mr. BISHOP. I appreciate your work on

the issues we have worked on in the past.

The California fires are tragic in what is happening to the people who live there, the loss of life, the loss of habitat, the pollution that is going into the air. I have been told that the California wildfires have burned the equivalent of 10 times the square mileage of the District of Columbia. Ten times the size of the District of Columbia has gone up in smoke in California so far.

In my district in Oregon this year, 11 times the size of the District of Columbia has gone up in fire. Now fortunately we have not seen the loss of life and we haven't seen the loss of homes. But what we have seen is the loss of land for grazing and habitat and clean water as our watersheds have gone up in smoke.

This picture here I brought down to the floor for my colleagues to see. It is of two young children who are from Harney County, Oregon. This is the Egley fire which burned in my district 140,000 acres; 140,000 acres, the Egley fire burned in Harney County. America's forest lands going up in smoke.

There are 192 million acres of national forest system lands. According to the Forest Service, 52 million of those acres are at high risk to catastrophic wildfires. Twelve million acres in Oregon are considered high risk; 26 million acres, or just under the size of the State of Kentucky, are at risk to insect infestation.

You have to understand that our forests are not static. They continue to grow and suffer bug infestation, drought devastation, and ultimately fire. The total net national forest growth in the United States is currently about 20 billion board feet a year. Total mortality is about 10 billion board feet. So our forests are expanding at 20 billion board feet a year, America's federally owned forests, and 10 billion board feet die. We harvest less than 2 billion board feet.

That is part of our topic today, the lack of active management in our Federal forests. I want to show you what happens on a watershed. This is up in northeastern Oregon. In 1989, the Tanner Gulch fire wiped out the spring Chinook salmon run in Oregon's Upper Grand Ronde River. This used to be habitat for salmon. There was a creek that ran along here. Unfortunately, it is just mud and sludge and debris and blackened trees and ashen slopes.

Now in an extreme fire, scientists tell us that the most catastrophic fire that occurs in our forests emits about 100 tons of carbon and greenhouse gases. For those concerned about trying to do something about carbon emissions in our atmosphere and trying to reduce other pollutants in our atmosphere, we need to do something to manage our forests better to prevent these catastrophic fires. That is on the extreme, the 100 tons per acre.

A healthy green forest will sequester between 4 and 6 tons of carbon per acre. So these are the choices we are facing: How do you manage the forests for better forest health, for reduced fire and reduced fire intensity, and get them back into balance with nature. My colleague from Utah said what do you do about that.

Well, a few years ago we passed the Healthy Forest Restoration Act. It was bipartisan in its nature and scope. It was designed to allow Federal agencies, the Forest Service, and the Bureau of Land Management, to more rapidly, while still involving the public, go in and do the kind of thinning and debris removal to address this issue of the overgrown forests you heard me mention, the 20 billion board feet a year that grows in our forests and the 10 billion that dies, so we can go in, especially in the wildland-urban interface, near communities where homes are, the kind of homes we see burning today, although they are not necessarily in a Federal forest, but it is a similar concept. So to be able to go in quickly and have scientifically proven plans, based on community wildfire plans, in many cases, to go in and remove that debris and reduce that fire hazard.

That legislation which I coauthored with former Representative Scott McInnis from Colorado and Senator FEINSTEIN and Senator WYDEN were both very much involved, has worked in many cases, especially the community wildfire planning piece because that piece brought diverse groups together, environmentalists, community leaders, firefighters. We have a group here from Bend who have been on the forefront of this very effort, firefighters from my own district. They came together and developed plans on how do we safeguard the communities and the things we really want to protect, our watersheds and habitat. They came together, and now they can even more quickly implement those community wildfire plans.

The problem we face in this Congress is virtually every Member of the leadership of this Congress voted ''no'' on the final conference report that passed the Senate unanimously, and that includes the Speaker, majority leader, the caucus chairman, the Resources Committee chairman, the subcommittee chairman, and the Rules Committee chairwoman all voted against the Healthy Forest Restoration Act conference report. This is what we worked out with the Senate. It passed and became law. We now have these community wildfire plans in place. We need to continue to work and expand them elsewhere. It is so important.

So far this year in America's forests and grasslands on Federal land, more than 8 million acres have burned. We are setting records. This is down a little bit from last year, but over the last few years, we are at record levels. American taxpayers have spent $1.22 billion fighting fires, and that is before these awful fires in California have broken out. So it is very expensive when we don't manage properly and have fires break out.

Let me tell you what has happened. In my district, it is 70,000 square miles of eastern Oregon. It is beautiful. We have nine national forests there. We have national grasslands. We have wilderness areas. We have Crater Lake National Park and high desert plateaus, wheat land, and we have had all these fires. They have destroyed communities and many homes in the past. They have inflicted death. They have burned, and it takes years to recover. In fact, we have cattle ranchers in central and eastern Oregon who may be off their allotments for 2 years because it will take that long for the range to recover from fires that, frankly, shouldn't have gotten so out of hand if we had done the right management to begin with.

In the meantime, the infrastructure that needs to be there for our scientists and professional forest managers to conduct this forest thinning is going away because, you see, the allowable harvest of timber off Federal land has declined in my part of the world by 80 percent, 80 percent reduction. And with it, the timber receipts to these communities.

So this chart going back to 1976 shows the various timber receipt levels. And you get out here, and you see there is virtually no revenue coming off our Federal land, revenue that used to help pay for restoration work, that used to help pay for conservation efforts, that used to help pay for parks and other things, the activities people like to do when they recreate. And, most importantly, revenues that used to be shared with the local counties to fund their schools and their roads.

In the largest county in my district, Jackson County, this year because timber receipts are virtually eliminated, and because the county replacement program was stalled in its reauthorization, which is fundamentally flawed in my opinion, they had to close all the libraries. This is not some thousand-person county. This is largest populated county in my district. Every library had to close.

Another county down on the south Oregon coast, they were looking at declaring bankruptcy. Another was going to have to lay off all their sheriff's deputies except those mandated by State law to run the jail to provide security because this Congress hasn't passed the Secure Rural Schools Reauthorization. I would hope that could be brought to the floor and passed so that those of us in the West, and the gentleman from Utah (Mr. BISHOP) has a wonderful map showing Federal land ownership, but where most of the Federal lands are in the West, my district is over half Federal land. And it is important.

When Teddy Roosevelt created the national forest reserves in 1905, he said it needs to be a partnership with the communities in the management of these lands and in the revenues that are shared, and these lands need to be

properly managed. I think he would roll over in his grave today if he knew what had happened in terms of the disassociation with the communities, in terms of the bug-infested nature of our forests, the droughts that have occurred that have left them distressed, and the disease that has come in, and then how they burn. And then we leave them.

In the last Congress, I wrote, and many of my colleagues on both sides of the aisle, including the gentleman from Washington (Mr. BAIRD), a Democrat, former Sierra Club chapter president, helped me write the Forest Emergency Recovery and Research Act.

□ 1645

So we, like private forest landowners and State forest landowners and county forest landowners and others, could get in right after a fire, take out where appropriate, where environmentally appropriate, in sensitive ways the dead trees that still have value, create the jobs, recover the wood, and replant sooner. We passed it in this House, big bipartisan margin to pass it. It went up on the rocks in the great graveyard we call the Senate, where all good ideas go to founder and die, and it did.

The fires in California, fires in my district, the fact that forests continue to grow exponentially, global climate change means they're going to be more under threat from higher temperature and, therefore, more drought and more bug infestation, more disease and more fire. This Congress, this country needs to adopt new policies.

Mr. BISHOP of Utah. I appreciate the gentleman from Oregon who's been a leader in trying to make sure that we have a healthy forest environment, and it means that we have to change some of the policies that we've had in the past, and I appreciate his leadership in those areas. I would like him to address just maybe one element.

Because of mistakes, I think, that we have made in the past on how we have decided to handle the forests in the future, those counties, those areas where citizens live next to the forest and where the forest becomes an integral part of their lifestyle, are facing a huge and significant problem, and especially their kids in secure rural schools. I wonder if the gentleman for just one second would take a moment to explain what we should be doing right now with relationship to secure rural schools, forest area schools.

Mr. WALDEN of Oregon. Well, we need to pass the legislation that's just come out of the Natural Resources Committee that would reauthorize the program that shared receipts or made up for the receipts that no longer are being generated with the county roads and schools. That legislation, and you are the ranking member on the subcommittee, worked very hard to make sure it's properly crafted, would provide for replacement revenue because, you see, that partnership shouldn't be broken, that promise shouldn't be shattered.

Communities where there are Federal lands, especially timbered communities, that have no real other ability to have an economic base in some cases, and yet, and I diverge a little here, but yet are still responsible when somebody's lost. Who's out there doing the recovery? The sheriff, out of the county. We've seen that tragically in my district, in my State, with the Kim family that was lost in southern Oregon. Family went out for a drive, got snowed in on a road, and the father died, and I believe the child and mother survived after several days. A number of climbers on Mt. Hood fell to their death. Their bodies have yet to be recovered from last year.

I was down in central Oregon and southern Oregon where sheriffs are out in the forests dealing with organized crime elements that have moved in to grow marijuana in highly sophisticated, generally Mexican, drug trafficking organizations, highly armed, very sophisticated. It's our sheriffs that are going in and trying and their deputies to deal with these issues.

So these costs of recovery, of rescue, of dealing with law enforcement issues on Federal ground are borne in large measure by the counties. And yet when you stop doing productive work on our national forests and they continue to grow and die at the same time, you don't have the revenue; yet, you still have greater and greater demand, people moving in to the wild land urban interface.

So this Congress gave us a 1-year reprieve in the emergency supplemental this spring. We need to reauthorize the county payments program for another 5 years, at a minimum, and we need to keep the Federal Government's commitment. If we're not going to do that, then we need to. And we probably need to do this anyway, frankly, get in with a new strategy on how to manage forests.

Now, I'm told in Canada where bugs have wiped out the lodgepole pine, the Canadian Government has come in and said actively get in there, take out the dead trees and let's get new forests going quickly. And they are rapidly clearing out the dead trees and starting new forests.

Our alternative here appears to be let it burn, let it rot, and 100 years from now we'll come back and take a look. I don't think that's the kind of stewardship Teddy Roosevelt had in mind when he talked about the great forest reserves and their use for water, for agriculture, and wood for home building. If you go back and read his speeches when he was creating these reserves; he wanted this long-term look at management of this wonderful resource we have.

Mr. BISHOP of Utah. You have long been involved in bipartisan efforts to solve this problem for your constituents, especially with their schools. I wonder if you would just take a couple more minutes before we segue into the next speaker, next area, simply talking about what we practically can do for secure rural schools right now, as well as what we should probably ask our leadership to do that we should be practically doing right now in the long term for healthy forests in the future.

Mr. WALDEN of Oregon. Well, there are two things. One on the forest side. Let me take that first, and then I'll talk about county payments.

You're right. I always figured people sent us back here not because of our party label and we're only supposed to use that; they sent us back here to solve problems. And that's how I've tried to approach this, and that's why on the Healthy Forest Restoration Act, it was bipartisan when it passed this House, although the leadership in place today, from the Speaker all the way to the subcommittee chairman, opposed that bill, the bill that passed bipartisanly, unanimously in the Senate in its final form. They voted against it. But that's law and that's worked.

We need to pass a version similar to the Forest Emergency Recovery and Research Act so that we can go in and clean up after these fires and use the burned, dead trees while they still have value; create jobs in our community. Then we won't need these Federal payments after all if we better manage the forests. We need to increase the allowable cut in our forests so that we can generate jobs and so that we can harvest wood here legally for our uses rather than buy our wood products manufactured overseas from illegally logged forests that are being wiped out in places like Burma and Malaysia and Indonesia and Russia and China where they may have laws on the books and they're completely unenforced.

So, as a result, we all gleefully go to the local furniture store and buy this furniture that's made from wood that was illegally harvested, while our forests burned, and we don't even recover the burned, dead trees. So we need to deal with that issue.

And we need to take into account some terrific research out of the forest service about the change in temperature that's occurring and how the forests are going to move north, but it will take them 10,000 years to catch up with the temperature that should change in about 100 years, if all their data is correct, and I know some of that still needs to be worked out.

So, finally, on the issue of county payments, first I think the first day of this session my colleague PETER DEFAZIO, a Democrat from Oregon, and I, as we did the prior session, introduced legislation with you and others to reauthorize the county payments law. That partnership needs to be kept. That promise needs to be kept, regardless of who carries the gavels around here. And it's taken until just a week or so ago to get it out of the first committee. It still has an Ag Committee referral on it, and it's yet to come to this floor. We should be bringing that to the floor and voting it up and down

and moving it to the Senate or they should be sending us a bill. But right now, it appears to be, I don't know, held up, and that's not good for our children. It's not good for our libraries, not good for our first responders. It's not good for our county roads.

These school districts in some States have to send their layout notices out in March to tell teachers whether or not they're going to have the money for the following year. As you know, this year that happened in some school districts.

Mr. BISHOP of Utah. I appreciate the comments from the gentleman from Oregon. I especially appreciate his comments about our bipartisan bill that has been referred out of Resources. The Speaker of the House does have the ability of helping to move that bill along and can change the referral process to bring this one to the floor. And how significant this is, with these particular counties for the so-called secure rural schools, schools that are impacted by our policies in the passed-over forestlands. We need to have that on the floor now, and it has a funding source. It can be moved right now. I think I would probably join you in asking the Speaker publicly to bring that bill to the floor, let us vote on it, let us move the process forward, get it over to the Senate so we can solve that problem.

Mr. WALDEN of Oregon. As the gentleman knows, the clock is running. Time is running out, not just on our Special Order tonight but on the school kids and the counties and the services that our citizens rely upon in these forested areas, because that funding stream we got that 1-year extension on is running out, as is the time in this Congress running out.

We'll be off 2 weeks after Thanksgiving, a week. We're going to be in for a day and a half or 2 days, couple of weeks in December. Then we're into January and maybe in 1 week there. You know, it's the way Congress works, but we're running out of time, and we shouldn't run out on the promise that this Congress should uphold to the school kids and the communities in America's rural counties.

Mr. BISHOP of Utah. I appreciate the gentleman from Oregon for specifically and very eloquently stating what the problems are in our national forests.

He, as well as I and many of those who will be speaking this evening, come from what are called public lands States. You see the map that I have to my left. Everything that is blue in those States is the amount of that State which is owned and controlled by the National Government, and you can obviously see that there's a unique difference between the States in the West and the States in the East.

Now, a big chunk of this blue in the West is national forests, which Representative WALDEN understands very definitely, very clearly, and needs to deal with that particular issue. And he's given us some directions on what we need to do to do it right.

The other part of this blue deals with land that's owned by the Bureau of Land Management, BLM land, and all of these lands, whether they be forestlands or BLM lands or parklands, have an impact on the States in which we find this particular land.

I'd ask my colleague from Utah, Mr. CANNON, if you'd maybe take a moment and talk about how we try to help these Western States that don't have control over their lands but still have the responsibility of providing services not just for the westerners but also the easterners that are coming directly on these lands with a program known as PILT, payment in lieu of taxes.

I yield to Mr. CANNON.

Mr. CANNON. I thank the gentleman from Utah, my colleague, for recognizing me and organizing this event, and you've seen his blue chart. I grew up thinking that blue meant Republicans. We had this anomaly here recently, because red normally meant the Soviets. I have here a map of the United States, and when Ronald Reagan saw this map it was in red, that is, the public lands that you see mostly in the western part of the United States were in red. He looked at that and he compared that to a Soviet state, and he said he'd never seen so much government domination as is expressed by that since the Soviet Union.

So, not being partisan about these issues, which are really in fact not partisan, let me just suggest that there is something terrifically wrong with the Federal Government owning so much of these States. You can see that in Nevada, 93 percent of the State is owned by the Federal Government. In Utah, it's over 70 percent. In California, it's about 50 percent. This is a huge amount of public ownership of our lands.

As a result, you can see also that the ownership by the Federal Government is spread around the whole United States. In fact, there are about 19,000 counties in the United States that have public lands of some sort in them, and in those counties the Federal Government pays to those counties money that substitutes for the taxes that those counties would otherwise receive. We call this payment in lieu of taxes, and it's fair.

It's fair in the East where we have small amounts of land and the payments are substantial, but it's not fair in the West where we've taken a vast amount of public lands out of the system, and therefore, States can't actually have any kind of revenue stream from those public lands.

Now, the blue map that you saw that represented how much of the Western States is owned by the Federal Government is interesting, and Mr. BISHOP I think is going to come back and talk about this startling fact, but it is clear that all of the people in the Western part of the country pay more in the way of taxes per family, per capita and otherwise, than in the eastern part of the country.

It's also clear that in the western part of the country, where we have this domination of Federal lands, that we pay less per pupil for schools than people in the East do. So we tax more and we pay less, and the reason we do that is because of the ownership of public lands by the Federal Government.

This leaves us in a difficult circumstance where it's just plain harder to grow in the West. Now, I've got to count my State, which is by many measures the best place in the country to do business, and I don't want to suggest there's a problem there. In fact, we love our public lands because people can go out and recreate, and that's why people who are high-tech and others want to come to Utah. It's a great place to live and to work and be. But you have to buy into the fact that if the Federal Government owns that property, you have to pay more in the way of taxes.

I have many friends who live in the Northeast who have said to me over time, these are America's lands. And if you look at the map, you have got a little bit of New Hampshire and Maine and there's a sprinkling around here in the eastern part of the country. But when they talk about America's lands, they're talking about the public lands in the West.

I spent some time at Disneyland one day with my wife and kids, and that can be very long and painful. We finally got into the ''Honey, I Shrunk the Kids'' exhibit, and I thought as we got to the door that we were almost ready to get on the ride, but then we got through the door and we had a long, long, half-an-hour-long line to wait through to get into the exhibit.

□ 1700

I was uptight, irritated. They had to pass by people like me. They had pictures of America flashing on the walls, and I noticed a picture from my district. I thought, well, that's nice. Two pictures later there is another picture from my district. Three pictures later there was another. The fact is, we have beautiful, beautiful lands in the West, and we welcome everyone to come out and join us on those lands.

But if they are America's lands, then we have a responsibility as Americans to pay the costs of those lands. If we are not going to use them productively, if we are not going to tax them for productive use, then we have an obligation in America to pay for those lands.

Mr. BISHOP of Utah. One of the things I have been hearing so many times, you may have said this already earlier, that PILT, payment for all these lands, is nothing more than a handout for the poor western counties.

Is this a handout or is this a responsibility that we have for these lands?

Mr. CANNON. Is that a handout or a hand in our pockets by the Federal Government? This is, in fact, not a handout at all.

Every county in the country taxes its public lands. Every county does. Every

State has a regime for taxing public lands. But we can't, because the Federal Government is sovereign, we can't tax lands that are owned by the Federal Government.

So if you want people to be there for search-and-rescue when you get lost in some of the beautiful parts of my county or my State, we expect to be paid for that. It's not an expectation that's vacuous or whiny, it's an expectation based upon what we are giving up in these western States and in Utah, in particular.

Mr. BISHOP of Utah. We are talking about what these lands can do and how we can benefit the constituents that are out there in these western lands as well. One of it deals with the bounties that have been placed in there in these western lands, what we can do if we actually bring them about.

I am often amazed how we sit under this quotation from Daniel Webster saying that in actuality if we want this country to move, we need to take the resources that are here and develop them. That's where progress comes.

The gentleman represents a State in an area that has a significant amount of natural resources that have yet to be developed, and I am talking specifically about oil shale. I notice that he has been joined here on the floor by Representative PETERSON of Pennsylvania, two people who understand our energy policy specifically and who realize some of the energy policies that we have been talking about passing on this floor are going to have a negative effect on people, on real people.

I wonder if he could spend some time talking about the potential of oil shale and what it can do. I guess the basic question is, is it really possible to remove ourselves from a dependency on foreign sources of energy?

Mr. CANNON. I thank the gentleman. In fact, I paid, I think, $3.09 the last time I bought gas. When I took my daughter, one of my daughters up to school about 5 years ago, there was a gas war. We had low prices. It may have been 6 years ago. I paid 75 cents a gallon for gas and of that 75 cents, 42 cents was tax. We are not paying 42 cents on a gallon of gas that is over $3.

These are amazing numbers. Why we are there? Well, we are there because we have had policies that have restricted the development of oil and gas. There are two things I want to comment on just quickly in response to that question.

The first is that we have 250 billion tons of coal in America representing about 6 or 800 billion barrels of gasoline if we did coal-to-liquids. A lot of people know that we are the Saudi Arabia of the world for coal, but very few people understand that we have more oil in our shale that's easily recoverable in Colorado, Wyoming and Utah than exists in all of Saudi Arabia.

If you look at the more difficult or more expensive to recover from shale, it's two or three times everything that you have in the Middle East. If we could just develop the oil that's in our shale, we would do remarkably well for America.

Let me just give you a sense of this. In other words, think of all the oil that comes out of Saudi Arabia, all the oil that comes out of Venezuela, all the oil that comes out of Mexico. We could easily replace that at a teeny fraction of the oil we have available in shale in this country. By the way, you asked the question, Mr. BISHOP, is it possible to actually get the oil out of that shale?

Well, the Estonians have been doing it for 60 years. They have been producing oil out of shale for 60 years. The shale that we have in Utah is better, has much more oil, and, in fact, in 60 years, we have made massive progress technologically. The answer is unequivocal. We can do it.

The Federal Government owns the bulk of this shale. We need to assure that we can do it quickly without the kind of burdens. Let me just take a moment to tell you, we have a mine in Utah, it cost $330 million to develop that mine in 1977. The first thing I did when I came to Congress was to stop the BLM from spending $50 million to shut that mine up so it would be, as they said, safe.

We have now released that mine, but it has taken almost 2 years in a mine that's already developed to get to the point of licensing that so the people that lease the mine can produce. Their production is based on a very narrow, limited set of circumstances. We are in the way. The Federal Government is in the way of energy self-sufficiency for the United States. The people of America ought to say we want to get out of the way.

By the way, for the people of America, this body is actually an interesting place. People do what Americans want us to do. If you want cheaper oil, tell your Congressman to get with it and help us change the policies so we can develop our oil, particularly the oil and gas in the shale in the United States.

I know that Mr. PETERSON is going to talk about oil and gas.

Mr. BISHOP of Utah. I appreciate it. I hope Mr. CANNON may have a chance to join us a little bit later.

We are talking about energy policies. It has an impact on people. We all like alternative forms of energy. That's important. But for the short term, we have to make life bearable for people. We have some options without having to rely simply on foreign sources.

Mr. CANNON understands oil shale very well, and he explained how that is one of our options. Another option we have is natural gas, which is a forte of Mr. PETERSON at the same time. I guess the question has to be, we understand how high natural gas prices terribly impact citizens trying to live their lives, heat their homes. They impact the job market as well. They impact farmers when it comes time for fertilizer. I guess the question is, can we make domestic natural gas reserves available so it improves the lives of people?

If I could ask Mr. PETERSON to spend a few minutes, 5 minutes or so, maybe explaining how that part of the energy puzzle can be dealt.

Mr. PETERSON of Pennsylvania. Yes. Natural gas, I call it America's clean, green energy, no NO_X, no SO_X, a third of the CO_2. It's almost the perfect fuel. Now, a lot of people don't realize what all we do with natural gas, but natural gas is the basic ingredient of many of our products, polymers, plastics, petrochemical. Everything we manufacture has some form of natural gas in it or we have used natural gas to do it.

Natural gas is America's hope for the future. I call it the bridge fuel.

Now, just a few years ago, in fact, 6 years ago, we had $2 natural gas, and we had $16 oil. Just 6 years later we now have $7 natural gas, but we haven't had a storm in the gulf yet, we haven't started our winter heating yet. We know those prices will skyrocket much higher.

Well, it amazes me. I am going to speak a little bit about oil. $87.50 was the price of oil, that it just closed at. Not a crisis in this Congress. I haven't heard any rustling of activity. We have a Senate bill and a House bill not conferenced on yet. I haven't seen where the House and the Senate have agreed to have their conference committee and move forward with their bill.

Now, maybe it's a good thing they don't, because let's just look at it. With the natural gas prices we have today, highest in the world, here is what their bill does. Their bill locks up 9 trillion feet of natural gas in the Roan Plateau. The Roan Plateau is a huge, clean natural gas field in Colorado that was once set aside as the Naval Oil Shale Reserve in 1912 because of its rich energy resources. That means that 9 trillion cubic feet of natural gas, more than all the natural gas from the OCS bill that passed last Congress in the gulf, will be put off-limits.

The Roan Plateau is ready to go. It has already gone through NEPA. It's ready for lease sale. This provision was not in the original Resources Committee bill and was added without any hearings in the 11th hour. That's the kind of legislation this Congress is putting forth to cause natural gas prices to continue to increase, locks up 18 percent more by policy changes.

I had some amendments in the energy bill in 2005. This guts the categoric exclusions if we stop allowing redundant NEPAs to stop the process. We had leases in the West where they had leased the land for oil and gas production, and 5, 6 and 7 years later, they are doing redundant NEPAs.

They had to do a NEPA for the whole layout. Then they had to do a NEPA for the road construction. Then they had to do a NEPA for every location. A NEPA study takes about a year. There is no reason that an overall NEPA on

the project couldn't cover all those aspects in a year's time and make sure we do it right. No, we are going to take away that, and that will lock up more natural gas. Of course, we just heard from our friend about the 2 trillion barrels of oil from western oil shale.

Well, it's similar to tar sands in Canada. Everybody thought that wasn't a good thing. Well, they are now producing 1.5 million barrels a day. Their goal is 4 million a day. They are increasing every month, because they figured out how to release the tar sand oil, and we need to be working at releasing the oil shale oil because we have trillions of barrels there.

Should we have policy? Should we have legislation going that's going to take oil and gas? Then we go on down here a little further, we are going to have a $15 billion tax increase on the production of energy and the processing of it. Does that make sense? That means it is going to cost American taxpayers $15 billion more for energy somewhere down the road. Should we be taxing the production of oil and gas? I don't think so.

There is nothing in the bills before us about coal-to-liquids. We are the Saudi Arabia of coal. It's a tragedy in America that we are not moving forward with coal-to-liquid and coal-to-gas, because, you know, today we are 66 percent dependent on foreign oil, and we are growing 2 percent a year, and we have $87.50, today's closing price. We hit $90 a few days ago. And just 6 years ago, it was $16. How much can the American economy absorb without a recession?

I was told by someone from the Department of State that they thought $75 oil for any length of time would put America in a recession. It didn't. What some figure is a figure that the American economy can no longer absorb. Now we are approaching the heating season. Sixty-two percent of Americans heat their homes with natural gas.

What do we have? We have it locked up. These are all areas that are locked up. Clean, green natural gas. A natural gas well has never contaminated a beach. It has never really done major environmental harm. But, no, America has a policy that we are not going to use the cleanest, greenest fossil fuel there is, natural gas. We're just not going to produce it.

I don't understand that, but that's where we are, folks. High gas and high oil prices are because this Congress, not just this current Congress, but historically, 26 years ago Presidents and Congress locked up the outer continental shelf. We are the only country in the world not to produce it, the only country in the world not to produce.

This is the greatest energy reserves we have. Eleven miles offshore you don't even know they are there. You don't see it. I have legislation that says the first 25 miles will not even be open for drilling. The second 25 miles would be controlled by the State. The second 50 miles would be open, but States would still have the right to pass a bill to not produce if they don't want to. That gives States rights. Then the second 100 miles would be open.

Folks, when we make these decisions to open these up, when we make the decisions to make any major coal-to-liquid, coal-to-gas, when we make decisions to reopen nuclear and get it moving again, you are talking 8 to 10 years before you have any energy.

America is in a crisis today. I think $87.50 oil is a crisis. We have $7 gas, and we know it's going to spike as soon as we start using our winter supply. When American homeowners find out the price of home heating oil, they are going to be pretty angry at Congress, and they ought to be.

Now, the gas prices that are out today, I heard the gentleman say $3.09. In my State it's $2.89. But gasoline prices have not caught up with $80 oil. $80 oil means $3.29, $3.39 gasoline. There is still a glut of gasoline in the marketplace. This spring we had $3 something gasoline with $60 oil because there was a shortage of gasoline in the world.

We buy 20 percent of our gasoline now from Europe. We don't produce enough in this country. Europe didn't have any to sell us because they were using more than normal. There was a world shortage and so our price was much higher than it ought to have been, because it's a separate marketplace.

Now, just wait till gasoline catches up, the summer fuel burns off. Our refineries are now making home heating oil, and those on home heating oil are going to pay a tremendous price because there is none of that in the system. Those heating with propane are going to pay a much higher price. Those heating with natural gas are going to pay 10 to 15 percent more. Home heating this winter is going to be very expensive.

Do you know who even feels the pain worse, small businesses who use a lot of energy. There are no programs to help them. There is no LIHEAP funding to help them.

□ 1715

Small businesses in America are going to struggle to make a profit because of energy prices. And natural gas, being one of the highest prices in the world, and we have lots of countries with very cheap natural gas, we're going to continue to export petrochemical jobs, polymer and plastic jobs, fertilizer. You know, here we're using ethanol now, it's big. We have to grow a lot of corn to make ethanol. We have to use a lot of fertilizer. Seventy percent of the cost of fertilizer is natural gas. If we make a hydrogen car, it's going to use natural gas. Natural gas is the feedstock for most of our manufacturing. It's what we heat our homes with.

We need energy policy here in Congress. We don't want a bill that takes energy away from Americans. This bill takes energy away from Americans. This bill makes energy more expensive. The bill before us does nothing to produce energy and to bring down gasoline prices, to bring down home heating prices and to keep American jobs here. And there's no reason that America cannot be in charge of its future destiny with natural gas.

We can't control the oil market. We can control our natural gas market. We can be self-dependent. We now import 17 percent of our natural gas. We wouldn't have to import any of it. America is rich in natural gas, the clean, green fuel.

And I impose this Congress, natural gas could actually fuel a third of the auto fleet. It would save a lot more than CAFE standards. And I'm for better CAFE standards. But it would immediately take all construction vehicles, school buses, taxicabs could all be on natural gas. That's a known technology. It's just a conversion.

Folks, clean natural gas is what America needs to be about as we build our renewable future. All the renewables are built off of natural gas. Natural gas is the feedstock. Folks, we need clean, natural gas so Americans can afford to heat their homes and can afford to drive their cars.

Mr. BISHOP of Utah. I appreciate the gentleman from Pennsylvania, who understands this issue.

Let me see if I can borrow that one you have in your left hand. I'm not all that hot on a lot of the details of energy and mining, but I am a school teacher, and I just noticed on the back of this chart is a chart which goes through the salaries of teachers comparing Wyoming and Montana. And you find that a step one teacher in Wyoming is significantly higher than a step four teacher in Montana. And I want to tell you, there's only one reason for that disparity. Wyoming does more with their resources to develop them and use them to help fund their education system. It has all sorts of spin-off effects.

I appreciate the gentleman from Pennsylvania who understands this concept so significantly and has spoken so eloquently about it.

I'd also like to welcome the gentleman from New Mexico who is here, who clearly understands the issue of energy significantly.

We will have a potential energy bill before us. We will have next week a potential mining bill before us, both of which could have some difficult situations especially as they deal with Americans. So I'd like to yield to the gentleman from New Mexico to have a chance to talk for a moment especially on what we are doing, once again, as to our constituents.

Mr. PEARCE. I thank the gentleman for yielding and appreciate his leadership on this.

We are discussing extremely important things. For instance, in the mining bill, which will be coming to the floor, a heated debate really arises

about what does it matter. What does it matter if we add an 8 percent royalty on to the price of minerals?

At one point yesterday in the debate, the chairman of our Resources Committee, Mr. RAHALL of West Virginia, said, I see no reason, no reason whatsoever why good public land law should be linked to the gross national product. Now that is, to me, a stunning statement because I think policy should always consider the jobs in America. It should consider our standard of living, and it should consider the ramifications for our communities.

Communities in the West, where mining occurs on public lands, will be affected most by this new royalty that is being suggested by the majority party.

Now, we had comments at a field hearing, and we find the comments are very similar from the Democratic witnesses to the Republican; in other words, both sides agree. There's a James Otto, ''8 percent is excessive,'' he says.

''I'm only aware of a single royalty that is as high as the royalty proposed in the bill, just one in my 20 years of practice. An 8 percent royalty would really be ruinous,'' says James Cress of Washington on 10/2/07.

''I am particularly concerned about the potential impacts of the 8 percent net smelter return royalty called for in the last legislation. All the royalty costs will be absorbed by the mining companies, and this will be a direct adverse impact on the amount of mining tax revenues that flows into the State and to the counties.''

We had testimony from one country, and I think it was British Columbia, that increased their royalties and saw a tremendous decrease in their net tax revenues because companies simply moved out.

Today, companies can move their mining assets; they can move their mining investments by simply a flick of the computer. If it's that easy, then we should be very cautious. We should be concerned about the gross domestic product before we jump into these very significant arguments.

One of the letters that I have, and I would like, Mr. Speaker, to submit this as a part of the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
Washington, DC, October 16, 2007.

Hon. NICK J. RAHALL, II,
Chairman, Committee on Natural Resources, House of Representatives, Washington, DC.

DEAR CHAIRMAN RAHALL: This is to request that the Committee hold additional hearings regarding our country's mineral policy as it relates to military and economic security before we convene a mark-up of H.R. 2262. Notwithstanding the amendment in the nature of a substitute discussion draft circulated late last week, we are very concerned that H.R. 2262 moves our country's mineral policy in the very opposite direction of recommendations outlined in the two recent National Research Council (''NRC'') reports:

(1) Managing Materials for a 21st Century Military and

(2) Minerals, Critical Minerals and the US. Economy.

We are entering a challenging time for our nation which is only now beginning to become clear. China and India are consuming huge amounts of energy and minerals which they are willing to secure from parts around the globe and with which they are fueling unprecedented economic growth. At current rates of relative economic growth, one or both of them will surpass the United States in economic output within two decades. We are in a race. Now is not the time to rest. We must examine closely the consequences. . . . intended and unintended . . . of our actions. We owe nothing less to our children's future.

I. MINERAL POLICY AND AMERICA'S MILITARY SECURITY

One of the most fundamental functions of the Federal government is to provide for the common defense and our national minerals policy is inextricably linked to providing for that defense. It was America's natural resources—and the ingenuity and strong backs of American workers—that made us ''The Arsenal of Democracy'' that supplied the tools of victory in World War II. In many ways, minerals are the foundation to a strong modern military.

Requiring our military to import the strategic and critical minerals it needs from hostile foreign nations puts our military on its knees before the battle begins. It will make the United States military the ''paper tiger'' China's Mao Zedong wished for in 1956 when he coined the phrase. Attachment 1 provides examples of strategic and critical military materials upon which our military already relies on foreign sources for. If we rush to create a minerals policy that further discourages a domestic minerals industry that is already shrinking because of the existing regulatory constraints, we will have left a grave legacy that is threatening to our long term stability.

As discussed in the NRC's report, restarting or jump-starting a U.S. mining operation in response to supply interruptions would be very time consuming, expensive and in all probability, impossible. Consequently, the mineral policy moved by this Committee must take into account military needs. To this end, we request joint hearings with the House Armed Services Committee so that this issue can be fully understood by the Committee.

II. MINERAL POLICY AND AMERICA'S ECONOMIC SECURITY

Mineral availability is a cornerstone to robust economic activity because minerals support the broadest range of manufacturing and industrial businesses, including transportation, defense, aerospace, electronics, energy, agriculture, communication, construction, and health care. According to the NRC's report, ''current lifestyles in the United States require per capita annual consumption of over 25,000 pounds . . . of new minerals . . . to make the items that we use every day.''

While our reliance on foreign sources of minerals may be less visible than petroleum, Attachment 2 illuminates the gravity of America's exposure in this regard. Our country is rich with minerals; however, the ''political availability'' compromises our independence on foreign sources of minerals. The NRC's report describes ''political availability'' as a significant part of mineral availability. The concept of ''political availability'' encompasses (a) legislation, rules and regulations that influence investment in mineral exploration and development and (b) the risks and results of change in these policies. While God has blessed our Nation with a rich natural resource base, it appears that the common sense with which He endowed our policy makers has not been used by its recipients.

We are concerned that H.R. 2262 will adversely affect both of these ''political availability'' components. We are unaware of any witness in the three legislative hearings held by Subcommittee on Energy and Mineral Resources thus far who testified that H.R. 2262 will increase domestic mining activity. Rather, several witnesses testified that H.R. 2262, as drafted, will be devastating to our domestic production of minerals, will be crippling our economy and will send more jobs overseas. We believe that moving H.R. 2262 out of this Committee in advance of an analysis of its impact on the overall U.S. economy is premature.

ATTACHMENT 1.—EXAMPLE STRATEGIC AND CRITICAL MILITARY MATERIALS AND FOREIGN IMPORT RELIANCE

Material metal	Uses	Import (percent)
Aluminum	Aluminum alloys in airplanes, aerospace, marine applications, food cans	44
Arsenic	Semiconductors, pyrotechnics, insecticides	100
Bismuth	Magnets, nuclear reactors, thermoelectrics, ceramic glazes	96
Chromium	Steels, catalyst, magnetic tape, plating	75
Cobalt	Specialty steels; medium or high temperature fuel cells	81
Columbium	Specialty steels	100
Copper	Wire, electromagnets, circuit boards, switches, magnetrons	40
Gallium	Optoelectronics, integrated circuits, dopant, photovoltaics	99
Indium	Semiconductors, metalorganics, light-emitting diodes	100
Lithium	Batteries	>50
Magnesium	Airplanes, missiles, autos, photography, pharmaceuticals	54
Manganese	Specialty steels	100
Nickel	Specialty steels; superalloys for jet engine parts	60
Platinum	Catalytic converters	80
Quartz Crystals	Electronic and photonic devices (high purity)	100
Rhenium	Specialty steels; high temperature alloys & coatings	87
Scandium	Refractory ceramics, aluminum alloys	100
Silicon	Photovoltaics, semiconductors, microprocessors, alloys, electronic and photonic devices	<50
Strontium	Medium or high temperature fuel cells	100
Tantalum	Specialty steels; electronic capacitors	87
Tin	Superconducting magnets, solder, alloys, electronic circuits	79
Tungsten	Specialty steels	71

ATTACHMENT 1.—EXAMPLE STRATEGIC AND CRITICAL MILITARY MATERIALS AND FOREIGN IMPORT RELIANCE—Continued

Material metal	Uses	Import (percent)
Yttrium	Laser rods, superalloys	100
Zinc	Batteries, galvanizing, paints, metalorganics, pharmaceuticals	63

[1] National Research Council, Managing Material for a 21st Century Military and Minerals, Table 4–3.

On page 1 we're referring to two recent National Research Council, NRC, reports. And one quote is, ''We are entering a challenging time for our Nation which is only now beginning to become clear. China and India are consuming huge amounts of energy and minerals which they are willing to secure from parts around the globe and with which they are fueling unprecedented economic growth. At current rates of relative economic growth, one or both of them will surpass the United States in economic output within 2 decades. We are in a race. Now is not the time to rest. We must examine closely the consequences, intended and unintended, of our actions. We owe nothing less to our children's future.''

In light of this worry by the National Research Council, yesterday I had an amendment which would have simply required that if we ever are passed by any country and become the second largest economy in the world, that the implications of this bill simply be done away with; that is, that we would begin to do the things that would heal our economy.

I accept the fact that we could be overestimating the impacts of this bill that is coming to the floor, the mining legislation. But what I will not accept is that we have consequences in our economy without having some way to reverse those impacts.

The Chinese economy doubled gross domestic product in 5 short years. The combined economies of China and India have tripled in size over the last decade, and some predict that, at the current rate, the U.S. could very well become the second largest economy in the world. That's what I mentioned when we very first started, that the consequences of too hasty an action here could place our children into a position where they no longer have the standard of living to where we, as Americans, begin in a steep decline economically, so that we do not have the hope and the opportunity for the future which we currently have.

The National Research Council pointed out three ways in which they are very concerned about the potential ruinous effects. They're concerned about how much of the minerals that we are going to import. And again, I would show a chart to my left, that all of these elements in this picture get minerals that are currently mined in the U.S. Some are strategic, some are not, but our daily life revolves around minerals that we get from deep inside the ground. When we acknowledge that and when we understand where these minerals come from, we might have a different opinion than just trying to regulate the companies out of existence. We're going to use these elements whether or not they come from U.S. mines or not.

My recommendation is that we continue to mine these minerals inside the United States. Don't transport our jobs. Don't transport our national security to firms outside. Don't make us subject to another country to get the minerals which are required for national security considerations. Please, let's take time before we pass this legislation. Let's send it back to committee. Let's contemplate the effects of it.

And I would yield back to the gentleman and thank him greatly.

Mr. BISHOP of Utah. I appreciate the gentleman from New Mexico coming and talking about these issues, and I think people can realize we feel very strong and deeply about these particular issues. This is what happens in our States. We live with this issue all together.

You've heard today about the nature of our forests and what we must do to have healthy forests in the future. You heard about the impact it has on school children in those forest counties. But there is a proposal; it needs to come to the floor that we can debate about that as well.

You've heard about the significance of payment in lieu of taxes and what it means to Western States, about oil shale development, natural gas development, mining development, all of these which have an impact.

Now, I said earlier on, but once again I'm just an old school teacher. And it does have impacts beyond what we naturally think about. And I'm thinking specifically about my kids, about my salary, my retirement as a school teacher and what we do in the future in our Western States.

We noticed before, this is the chart, the amount of blue is how many, how much land is owned by the Federal Government in each State. I'd like you to contrast that, if you would, with this chart. The States in red are the States that have the most difficult time increasing the amount of money and paying for their education. The States that are red have the growth in education but they also have the most difficult time in adjusting for that growth. And if you look at that and then compare it once again with the public land States, you'll find an amazing correlation. The public land States are having the most difficult time funding their education, and I think there is a relationship to it which we have yet to fully investigate, and we ought to. It's a subject for a future time, but it's also one of those things that are important because there are collateral impacts that are extremely important on how we actually follow the advice of Daniel Webster up there, which told us to develop our resources so that we can move this Nation forward. And this is the time we have to do it. And there are right ways of doing it and there are probably imprudent ways of doing it. It's important that we do it the right ways, and we in the West clearly understand the significance of that.

With that, Mr. Speaker, I appreciate your patience.

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE SITUATION IN OR IN RELATION TO THE DEMOCRATIC REPUBLIC OF THE CONGO—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 110–69)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

The situation in or in relation to the Democratic Republic of the Congo, which has been marked by widespread violence and atrocities that continue to threaten regional stability and was addressed by the United Nations Security Council in Resolution 1596 of April 18, 2005, Resolution 1649 of December 21, 2005, and Resolution 1698 of July 31, 2006, continues to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency declared in Executive Order 13413 of October 27, 2006, and the related measures blocking the property of certain persons contributing to the conflict.

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 national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo, and the related measures blocking the property of certain persons contributing to the conflict in

that country, must continue in effect beyond October 27, 2007.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 24, 2007*.

CONSTITUTIONAL CHECKS AND BALANCES

The SPEAKER pro tempore (Mr. MCNERNEY). Under the Speaker's announced policy of January 18, 2007, the gentleman from Minnesota (Mr. WALZ) is recognized for 60 minutes.

Mr. WALZ of Minnesota. Mr. Speaker, it is a pleasure to be here with my colleagues, the members of the class of 2006, and I'm going to defer to my colleague from Kentucky who brought an initiative forward and one that we are excited about talking about. It's something that the American people should be excited about talking about. It's a refresher course and, I guess, to bring to the forefront again the most important document in this country, the Constitution.

□ 1730

With that, I yield to the gentleman from Kentucky (Mr. YARMUTH).

Mr. YARMUTH. Mr. Speaker, I thank my colleague from Minnesota, the distinguished president of our class, for yielding and thank him for the superb job he has done in leading us through this wonderful year that we are spending as new Members of Congress.

I want to start this segment by actually reading the first few words of the Constitution of the United States because too often I find that, as I go around the country and go around my district, the people have lost sight and I think many Members of Congress have lost sight of exactly what the Founding Fathers did 220 years ago. I think we are all familiar with the preamble of the Constitution, and it starts with those wonderful words ''We the people,'' those incredible words that actually go to the heart of what we are about as a democracy:

''We the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.''

Now, following those words, following that brief preamble, it says in article I, section 1: ''All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.''

I think it's amazing to think back to what was going on in those formative years of our Republic in 1787. The country had just rebelled against a monarch in England, and when they were establishing a government that would reflect the hopes and dreams of the people who had gone through that incredible war of revolution against England, they decided to create a government in which the ultimate power would rest in the people. That's why they said at beginning of the preamble, ''We the people.'' They created in article I the representative body of government that we sit in today. They did that because they didn't want one person being the decider of everything that affected their lives. They wanted to vest the power to govern in themselves through their representatives in Congress.

And so we sit here as successors to that incredible legacy. And it is not only our power to do that vested by the Constitution in article I; it is our responsibility. We have an obligation to govern on behalf of our citizens, ''we the people,'' as reflected in our representation here.

I think those of us who were elected for the first time last November know that, yes, we were elected partially because of the war in Iraq, but we were also elected because the people of the country decided that they really wanted to make sure their voice was heard in Washington. They thought their voice was being ignored. They said this is our government. We are going to change it by sending people there who will listen to us and will put our desires into action through the legislative process.

So I thought it would be wonderful to call attention to the fact that article I does impose, again, not just these powers, but it also imposes responsibilities. And that's what we came here to do, and we recognize that. We want everyone in Congress, both parties, to share in this acknowledgment of what our responsibilities are under the Constitution. I am so proud to have with me tonight and so proud to serve with wonderful people who are committed to the same ideals.

I would like to recognize BETTY SUTTON from Ohio, one of our wonderful new Members, to elaborate on article I and what we are doing to realize and to fulfill our responsibilities under article I.

Ms. SUTTON. I thank the gentleman for his introduction here and I thank you for your leadership. The gentleman from Kentucky is taking us, hopefully, on what will be a bipartisan effort to restore the responsibilities of this Congress has under article I and just sort of bring that back to the forefront because checks and balances are very important in this government. I also want to commend the leadership of our president, TIM WALZ, the gentleman from Minnesota, who is an outspoken advocate for the people that he represents, and, frankly, that's what article I is all about.

As you point out, when we were elected to Congress, we were elected to represent the people of our districts. Not lobbyists on K Street and not operatives at the White House or even the President himself. Our responsibility and our loyalty are to the Americans, the people, first and foremost, who sent us here. That means we have to do the job that they asked us to do. And that job is important, and we know exactly what that job is because article I in some ways is a job description. As you point out, it's not about really just authority; it's about responsibilities. Nowhere in that job description in article I does it say we have to protect egos or political interests of the executive branch. Nowhere does it say that we have to do only things that the President tells us to do. And nowhere in that job description does it say that Congress answers to anyone but the American people.

There has sort of been a slope here where past Congresses have ceded legislative power to the executive branch, and, frankly, I believe that when that happens, Congress is falling down on their job. I am really glad that we are here tonight to reinvigorate and rededicate ourselves to make sure that we are fulfilling our obligations and our function under article I because it is vitally important to so many issues, from the war in Iraq to all these judiciary issues.

Mr. YARMUTH. I thank my colleague. She has expressed it very well, and that is exactly what I know she has done in our 10 months here.

It also gives me great pleasure to recognize our colleague, another new Member from the great State of Florida, Congressman KLEIN, and I know he has some thoughts on this issue as well.

Mr. KLEIN of Florida. I would like to thank the gentleman from Kentucky and all of my colleagues here in our freshman class. We all ran in these difficult elections almost a year ago, but I think the very strong message that came out of all of us coming to Washington was a very strong message from back home, and that is the responsibilities, as was suggested by our colleagues, that we all know, from our civics classes back in high school and elementary school, that the beauty and the strength of the United States and our democracy is all about checks and balances. It's what makes our system a democracy. We can look at other models in Europe and Asia and around the world and dictatorships and things like that, but the strength of what works in this country is checks and balances.

What we believe is going on and the reason this emphasis on article I is so important and for our public and the people in this country to jump on this and work with us and recognize this and talk about it is because there has been a falling down of one side. We're out of balance. There are three legs to the stool. Each one has a specific set of authority. The judges, the judiciary, interpret. The legislature, that is, the Congress, has the authority to make the laws. And the executive has certain authority into executing and following and, through the agencies, doing certain things. But when one branch gets out of whack, it means the power is coming from another branch. This isn't about personal power. This is about the strength of our democracy. That is the exciting piece here.

So this check and balance is not about President Bush, or any President. It's not about anybody in particular because there are future and past leaders that have all tried to exercise in certain ways. This is about where we are going in the future. I think as the gentlewoman from Ohio has already correctly mentioned, there has been a failure over the last number of years in the legislative branch, the Congress, in fighting back and asserting itself in terms of oversight and accountability and follow-through to make sure that the executive branch, the President and the executive branch, are doing what they are supposed to do, whether it is executing the war in Iraq and making sure that billions of dollars are not flowing out without any follow-up, whether it is an Attorney General that may not have necessarily been following some of the laws as we understand them or at least having the opportunity to ask the questions and not be stonewalled by the executive branch. This is what it's all about. It is a balance. It's a beautiful thing, truly, but it has got to work.

As the gentleman from Kentucky has correctly stated, and I thank him for bringing up in our discussion article I, this conversation that is going to happen throughout our country for the next couple of months is, let's make sure Congress does its job, let's limit the executive branch to do what it has to do, and make sure that our system works in its form of accountability that we have.

Mr. YARMUTH. I thank the gentleman.

I would now like to recognize another colleague, another member of the freshman class and the first president of our class and also a member with me on the Oversight and Government Reform Committee, where I think we perform one of the major powers and responsibilities that article I vests in the Congress: the function of oversight.

Mr. HODES. I thank the gentleman for yielding.

Mr. YARMUTH, let me start by saying how proud I am to stand with my colleagues, other new Members of the class of 2006, to talk about an initiative which you began, the article I initiative, to talk about reasserting the constitutional balance of power in Washington.

For me, in coming to Congress as a new Member of this House from New Hampshire, it was absolutely fundamental to what I talked about in my campaign that the people of New Hampshire sent me to Congress to restore accountability, integrity, and oversight to government. They sent me here because what I said to them and what we now see is that Congress was a broken branch. Congress had not been exercising its oversight and accountability functions. And when Congress does not exercise its important power, its important right, its important obligation to the people to exercise oversight and accountability over the executive branch and other branches of government, things get unbalanced. It was that sense of checks and balances that our Founding Fathers put into the Constitution, and they put it in there for a reason.

They won a Revolutionary War against an empire, the British empire, with an imperial ruler at the top, the King of England. We wanted to make sure that we had a different form of government; that we had a form of government where the people were the top dog in the fight; that the ruler would never become imperial. That is why we have a President, we have a Congress which is divided between the House and the Senate.

In article I, section 1, our founders were very clear. They said, ''All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.'' What I saw and many of us saw when we ran was a President who was abusing presidential power in an unprecedented way. This wasn't a matter of parties. It was this President abusing power in an unprecedented way, and it could have happened whatever party that President was in, but this is what we saw, and we ran.

The article I initiative, which you began, which we have joined, and which we are spreading, seeks to heighten the public consciousness of the importance of checks and balances in our system. As newly elected Democratic Members of Congress, we feel with particular importance the obligation we have to reassert the power that the Founding Fathers wisely gave to Congress. When we came, we took an oath of office to protect and defend and uphold the Constitution. Article I is the first article, and it is the first article for a reason. And we are well on our way as we have begun to exercise oversight throughout Congress with hundreds of hearings held in this 110th Congress on many issues and especially the war in Iraq and what has happened with this President and this administration. In the Oversight and Government Reform Committee, we have held oversight hearings about administration interference with the work of GSA, the folks who deal with Federal buildings, turning it into an arm of politics; administration interference with science at NASA; administration incompetence with FEMA, delivering formaldehyde-filled trailers to the victims of Katrina; incompetence and mismanagement by the State Department, failing to exercise oversight over contractors in Iraq, the Blackwater scandal that is beginning to emerge now. We have been holding the hearings that constitute the function of Congress not just to make the law but to exercise the oversight that keeps things in checks and balances.

I am delighted to be with you tonight. We are going to talk about numbers of ways in which we are reasserting Congress' power and taking steps to bring the people back to the People's House and serve the interests of the American people.

Mr. YARMUTH. I thank the gentleman from New Hampshire (Mr. HODES).

And now, Mr. Speaker, it gives me great pleasure to introduce one of our more illustrious new Members, Mr. HALL from New York, who has done a great deal in his term of office to uphold article I.

Mr. HALL of New York. Thank you so much, Congressman, for yielding.

I am proud to join my fellow new Members of the class of 2006. Freshmen, new Members, whatever you want to call us, I am really honored to be here with all of you and to tell you, speaking of oversight, about my trip this last weekend to Iraq. I think it's one of the most important functions the Constitution gives to Congress, the power, the sole power, to make war and to fund that war should it decide that it needs to happen.

□ 1745

I flew out on a congressional delegation that was led by our fellow classmate, Dave Loebsack, Congressman of Iowa. And after a few hours of sleep in Kuwait, we were flown in by a C–130 to Balad Airbase in Iraq. On the way in, the plane's crew deployed flares against a perceived threat from the ground. I never found out exactly what they saw, but they fired flares for protection.

We got a tour of the base and the Air Force Theater Hospital there. We spent a night in the Green Zone. I slept in a guest room in one of the pool houses by one of Saddam's palaces, with a big Olympic swimming pool and gold fixtures and a marble bathroom that the guesthouse had. And I understand this is a subject of some friction with the Iraqis who feel that after 4 years we should have handed over the national palaces to the Iraqi people rather than inhabiting them ourselves, but that's another subject.

I have good news and I have not so good news. The good news that I first perceived on my trip is that, first of all, I cannot state strongly enough my admiration and respect for our Army, Navy, Air Force and Marine personnel. Officers, medical teams, enlisted men and women, all are displaying creativity, commitment and a work ethic that should make all of us proud, even when they're carrying out duties other than they were trained for, such as an artillery officer doing civil affairs or training Iraqi police. They are more than up to the mission.

The other good news is the money that we and our fellows here in Congress voted for MRAPs was definitely money well spent. We saw a picture of a Cougar MRAP that was hit by such a powerful explosive that it blew it up 25 feet or so into the air, hooked the utility lines, and brought them down with it as it landed upside down. Four soldiers inside that MRAP, two of them

walked away; the other two spent a night in the hospital with relatively minor injuries and returned to their units. Their commander told us that in any other vehicle all four would have been fatalities.

Now for the bad news. We have a lot of other vehicles. We were shown a huge parking lot. Imagine the biggest used car lot that you ever saw full of Humvees, Bradley vehicles, tanks, trucks, all kinds of vehicles that had been hit by IEDs. Some, including Abrams tanks, looked like they had been opened up by a can opener and had metal inside that had melted and resolidified. Tires, treads, electronics and other useable parts were being salvaged, and the twisted steel that was left sold for scrap to Kuwait.

Some vehicles were deemed fit for repair, but most of what we saw was clearly far beyond repair. The lot we looked at represented thousands of American casualties and billions of taxpayer dollars. We were not, by the way, allowed to take photographs of it.

In the Green Zone, the most heavily guarded part of Baghdad, one of the safest, supposedly, parts of Baghdad, we were shown the concrete shelters every couple of hundred feet and warned to duck inside one of these shelters if an alarm sounded, because just the week before, two American troops were killed by mortar fire in the Green Zone. Even sleeping in a guest room in Saddam's pool house, with the Olympic swimming pool and gold fixtures, we had to be ready to duck and cover.

We had meetings with Ambassador Ryan Crocker, General Petraeus, briefings by the intelligence staff. And my synopsis of the conversations goes like this: Ambassador Crocker said, ''the Maliki government is somewhere between challenged and dysfunctional.''

I asked repeatedly about what progress is being made toward restoration of clean drinking water, sewer service, and uninterrupted electrical supply. The answers from all of our briefers were vague. And current estimates are that electricity is only on 2 to 3 hours in Baghdad, maybe 12 hours a day in Ramadi or the Shia-controlled south.

The next day we got to go to what they called the safest part of the country, which is Ramadi in Anbar province. Surprise; the last couple of months there has been a decrease in violence there as what they call the Anbar awakening happens with the sheiks deciding they're going to side with us rather than siding with the terrorists.

Nonetheless, as we rode in the helicopter to the safe part of the country, we flew low and fast, close to the deck, with two .50 caliber machine guns out each of the front doors, and a couple of times they fired bursts of automatic weapons fire. And afterwards I asked what it was for, and the gunners said they were clearing intersections. I presume that means firing in front of the lines of vehicles to make them stop and not drive directly underneath us.

When we entered the marketplace to see the new, safe Ramadi market and the new business center, the small business center that had opened, we were driven there in a Cougar MRAP and told to wear our body armor and our helmets while we were inside the MRAP. And when we took them off and walked around the marketplace, we were surrounded at all times by a ring of dozens of soldiers carrying automatic weapons, and they were wearing their helmets and their body armor. So, if that's the safe part of Iraq, I wonder what the dangerous part is.

On the way home we stopped in Ramstein, Germany, launched to a medical center, visited some of our troops. I saw one of my constituents there and had my picture taken with him, and interrupted his lunch to shake his hand and thank him for his service.

There were several Romanians there who were injured, a number of Americans, all of whom from Iraq were hurt in Baghdad, attacked in Baghdad, and then there was one attacked or wounded in Afghanistan.

Their spirits, in general, were great, and the medical staff was terrific. I can't say enough about our medical core either. And they really appreciate the visits. They really appreciate the donations from home that are coming from individuals, from school kids, from veterans groups and from corporations of everything from fleece and coats and underwear and toothbrushes, anything you might need, duffel bags, because these are soldiers evacuated from the point where they were wounded in the field by helicopter to Balad and then stabilized and sent off to Germany.

So, there are good things, but there are also enough negative things going on there so that I returned with the same conclusion that I went there suspecting, which is that the $200 billion more that we're being asked for by President Bush for Iraq, based on the presumption that the Maliki government, which our own ambassador describes is dysfunctional, will be up to the task of resolving and reconciling the differences between the different sects is wishful thinking; and that after a year and another $200 billion, where will we be? What kind of guarantee, what kind of even probability do we have of a stable country to leave behind? If the sheiks in Anbar can get together, if the mullahs in the south, the Shia south can get together, if the Kurds in the north can get together and stop attacking Turkey long enough to have the country that they've always wanted, then perhaps we can bring our troops home and get to business spending that money here on things that Americans, at least in my district, are telling me they need built, infrastructure they need repaired, schools that they need to be improved, and other things that constitute Nation building here at home.

That is the short version of my report. I thank you so much for letting me share that with you.

Mr. YARMUTH. I want to thank my colleague.

Before I introduce another one of our esteemed colleagues from the class of 2006, when you talk about your observations after having gone to Iraq, and many of our colleagues have gone, sometimes I think people get the impression that we're just acting like any other pundit talking on television. But, in fact, what you're doing and what the other Members of our body have done when they go to Iraq is to fulfill their responsibilities under article I. Because article I says that Congress shall have the power to provide for the common defense, it says to raise and support armies, to provide and maintain a Navy, to make rules for the government and regulation of the land and naval forces, and so forth, to provide for organizing, arming and disciplining, this is the militia. But all of these powers and responsibilities are given to the Congress not just to say okay to the President, the Commander in Chief, but to make the decisions as to what the appropriate levels of support for those various responsibilities are.

So when we talk about going to Iraq to assess the situation there, to talk to our troops, that is not just to go for a matter of curiosity or journalistic curiosity, it's actually to fulfill our responsibilities because we are responsible to make decisions as to what appropriate levels of support are.

And with that, I would like to call on my distinguished colleague from Minnesota (Mr. ELLISON).

Mr. ELLISON. Well, my colleagues, let me thank you again for this excellent dialogue.

We have to, as the difference makers in this 110th Congress, tell the people what's going on, what we're here for, and to reclaim the Congress as a co-equal branch of government articulated in article I, a co-equal branch of government that resides and has all legislative powers herein granted shall be vested in the Congress of the United States and shall consist of the Senate and the House of Representatives.

And so as I heard my colleague, Mr. JOHN HALL, articulate his trip to Iraq, I was forced to reflect upon my own. And I didn't go there out of an idle curiosity seeker, a person trying to go on an interesting trip, but as somebody who is going to be called upon to execute a vote, to push a button, red or green or otherwise, as to monies that will be sent forth and as to other business that will be happening in Iraq. That's our job, we claim it, we do not abdicate it, and it would be wrong and a dereliction of our duty to do otherwise.

So, let me commend you and everybody who has gone to that place where our constituents, some of them have spent up to 18 months at a time as they face extended deployments.

And I also want you to know that I sat down at a table with young people

from my district in Minnesota where we ate lunch. I was struck by the fact that wherever they go, they've got these big old guns that they carry with them, everybody. It's like a wallet, but it probably weighs quite a bit more than that. And that's just the lives that they lead. But they distinguish themselves and make us proud by their courage. And it is political authority, politicians like us that make decisions whether they stay or whether they go. So we had better at least spend a little bit of time there with them, and we had better at least try to get in their shoes and identify with what they're going through just a little bit and feel that 130-degree heat that they're in every single day and feel the dust and sand under their feet and the hum of those helicopters. I'm sure you were humming around in those Black Hawks with the windows out and the machine guns on either side, strapped in in four places and feeling the heat of those propellers as the air hits against your helmet. It's the kind of experience that we go through so that we can have some real sympathy and empathy with the people who we are charged to represent. So, hats off to you, Congressman. I appreciate it.

I'm not going to talk long because I love the switching around that we do. But I just want to make one other point as we look at article I and we reclaim and assert our responsibility under the Constitution as Congress. It is also important to understand that we have asserted our authority in the area of promoting working-class prosperity for people.

I am so proud that one of the things we did for the first time in 9 years is raised the minimum wage, Mr. Speaker. The hardest working people in America getting paid the least got a raise under this Congress. And I don't want people to make that into any kind of a small matter. Thousands and thousands of Americans benefited by raising the minimum wage for the first time in 9 years. I'm talking about the folks that clean the bedpans, mop the floors, sit in those cold or hot parking booths all across this country and really do the tough, tough work, getting paid not much of nothing. And you know that if you make minimum wage, basically, if your employer can pay you less, they probably would. So what we did is we raised that minimum wage so people can have a little bit better of a life. So now instead of moms having to tell kids, ''Honey, you can't go on that class trip,'' ''Honey, you're going to have to wear those sneakers a few months longer,'' now, instead of dad saying, ''No, son, you can't sign up for baseball,'' or, ''Yes, we're having macaroni and cheese again,'' now they can say, ''No, we're going to do a little better this time. We're going to make your life a little better. We're going to make your quality of life a little better.''

So I just want to say, Mr. Speaker, that I'm so proud of my colleagues and this whole 110th Congress to be able to do a little bit better for the hardest working Americans in our country.

Mr. YARMUTH. I thank the gentleman. And it's interesting because, again, you can find a foundation for all these things we're doing in these very words in article I, because one of our responsibilities is to provide for the general welfare. And when we're talking about the minimum wage, we're talking about the general welfare of the people.

I would like to return to our distinguished president, who has a distinguished military record of his own, since we've been talking about our efforts with regard to Iraq and the military.

Mr. WALZ of Minnesota. Well, I thank the gentleman. And I thank the gentleman from New York for his clear testimony and for fulfilling his obligation, not only as a Congressman, but as a citizen, to ask the hard questions. When we send our soldiers and our warriors into harm's way, it's all of our responsibility to ask, is this the right mission? Are they being provided for with the right equipment? Are we doing everything necessary to ensure that that's happening?

And quite honestly, the problem around here up until January of this year was that people were being told that it was unpatriotic, it wasn't right to question those things because the President, under his administration, was determining that he was the unitary executive, he was the decider. Now, that's the President's right, that's this President's right or any right, I guess, to determine how they're going to look at that.

The foundational principles, though, of this country don't let us just get to pick and choose. We go back to the document that the gentleman from Kentucky keeps referring to. The Constitution of the United States clearly lays out for us, and I think it's kind of interesting and maybe even critical for us, it might be the teacher in me that goes back to this, I have been rereading a book on the Constitutional Convention by two professors from Georgia that take James Madison's notes about what was happening at that time and that summer when they were thinking how they were going to form this government.

□ 1800

When the President talks about he doesn't need 435 commanders in the field or whatever, what he does need to understand is that these 435 Members were the very first piece of decision-making that went into that convention.

I would like to quote a little bit if I could from this, to my colleagues and to you, Mr. Speaker, about what was going through their minds as they were formulating this and what our responsibilities as article 1 is. Keep in mind that they met on May 30, and on June 1, the first piece of legislation once they got a quorum and they decided they were going to go with a Federal or national government, here are some of the notes that were compiled. Here is Mr. Mason.

Mr. Mason argued strongly for an election of the larger branch by the people. It was going to be the grand depository of the democratic principles of the people. It was, so to speak, to be our House of Commons. It ought to know and sympathize with every part of the people. It ought to therefore not only be taken from different parts of the whole, but also from different districts of the larger members, which had several instances, particularly in Virginia, different interests of views arising from differences of produce, differences of habit, all kinds of differences.

Mr. Madison considered the popular election of one branch of the national legislature as essential to a free government. He thought, too, that the great fabric to be raised would be more stable and durable if it should rest on the solid foundation of the people themselves and their elected representatives as the pillars. They went on to formulate how they were going to do that and have the debate of who should elect the Senate and how those things should happen. But there was no doubt in anyone's mind by the framers of this government about where the pillar and where that foundation should lay.

I think it is interesting, then, to take a look at this of when they talked about the next branch, when they started talking about the executive branch. On June 1, the delegates began considering the structure of the executive. They were not sure yet what duties would fall to the executive or even whether a single person would hold that position. The major issue that faced them was one of balance. If the executive branch was too strong and independent, many delegates feared it might result in another monarchy like the ones they had recently revolted from. But if the executive was too weak and depended solely on the legislature, it might be ineffective. Thus, checks and balances were key to this.

In going through and looking at these, the different issues that are coming up or the clauses that went into this, it was apparent from the very beginning that the Founders of this Nation clearly understood that. As we said earlier, and my colleagues each said, this isn't about a piece of legislation. This is a platform or a framework to get back to where this country came from. This isn't about President Bush. This is about all subsequent Presidents. And so be it, be that Democratic, Republican or whatever it would be, that those individuals still must fall within this framework.

I believe, and I think my colleagues that are here tonight believe, that that was one of the motivating factors for sending many of us here almost a year ago to the day. It wasn't just ideology. It was about the framework of the genius that went into the Constitution

and the thought processes that formed that.

So in listening to this and listening to Mr. HALL describe his trip to Iraq, he is fulfilling his constitutional duties as an elected official and fulfilling the things that we know are necessary. I would go back to talking about this MRAP. If you remember, without the oversight, it was the administration that sent our soldiers with the army that we had, not the one that we would want. No one asked about body armor. No one asked about up-armored Humvees. Those were the questions that should have been asked in this chamber. But they were told, no, go along with the executive.

Well, article I is about saying, we will never just go along because that is not our duty. I am pleased to see each of my colleagues here. I know the passion that each of them feel for this issue is a passion for this great Nation. It is a passion for the founding principles. It is not a revisionist history. It is not a power grab. It is functional government that delivers for its people. That is what we need to get back to.

With that, I would like to, if I could, yield to the gentlewoman from Ohio.

Ms. SUTTON. I thank the gentleman. What great points, and thank you for reading that because we can all use sort of that reminder that the Founding Fathers recognized the dangers of an imperial Presidency where edicts from the White House might carry more weight than laws passed in Congress or rulings handed down by the court. And that is what we are here to do, to get things back in balance.

Unfortunately, as we have sort of expressed earlier, some of us, that the White House at present has routinely refused to provide information to the Congress. As the gentleman from Minnesota points out, that is not what was envisioned when our Founding Fathers put together the fantastic, amazing, living document that we are here today to reclaim.

Earlier this month, I heard testimony from executive branch witnesses that they were refusing to answer questions before Congress on whether or not there is corruption in the Iraqi Government. We hear this right after we hear our distinguished colleague from New York talking so eloquently about what he saw and what he witnessed. And we hear about our responsibility to come forth with the knowledge that we gain when we go to Iraq and I, too, have visited Iraq. We hear witnesses come in, though, from the administration when you start to ask questions about corruption that may be going on in that country, where we have paid, those of us here, the American soldiers, the troops, the price that they have paid. You speak so eloquently of them, Congressman HALL, and their dedication and their heart. I have to tell you, they are breathtaking to watch in action. But we have to question if money is missing. We have to question when equipment is missing because the troops pay a price. The American people are paying a price for what we are doing in Iraq.

At any rate, the reality of an administration that instead of providing information so that we can investigate, they stonewalled providing information and in that case and in so many other cases, and I am sure others are going to mention them, it is our responsibility to ask the questions, to get the information and make sure that we make policies that are worthy of those soldiers and are worthy of the American people.

I am so proud to be here with you all tonight, the members of the freshman class as we begin this campaign to reclaim our responsibility. Before I yield back, I just want to mention one thing that was striking. The gentleman from Minnesota mentioned that the President has rights under article II. But I think that we would all be better served that rather than thinking of the President having rights, he should think of them as responsibilities, because they are not personal rights. It is a job description for him, too, in article II.

Mr. YARMUTH. I thank my distinguished colleague from Ohio. It is kind of interesting, because since we are going back to the kind of legislative history of the Constitution, in the Federalist Papers which do constitute, I guess, whatever official legislative history there was, one of the things that James Madison wrote in article number 51 was, he said, ''But the great security against a gradual concentration of the several powers in the same department'' which would be the executive or the Congress ''consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others.''

So when you talk about the efforts of the White House, in this particular case, to withhold information that the Senate requires, and we issued subpoenas, which would be our constitutional means of requiring the information to resist the encroachments of the other branch of government, we have been stonewalled on a number of occasions. And this is the type of activity that the Founding Fathers anticipated. They gave us the constitutional means to resist those encroachments. We need to continue to recognize those and to use them whenever we have to.

Now, my colleague from Florida has been standing there for quite a while.

Mr. KLEIN of Florida. Thank you, the gentleman from Kentucky and the gentleman from Minnesota. It was great. It reminded me of being back in school of reading the Federalist Papers and those kind of things. But for those folks listening in this room and around the country, I think we all understand very clearly this is a living, breathing document, the Constitution. It has changed over the years, not the language, but the belief, but the fundamental goals and the values behind it are all the same. I think when I speak to people back in Florida, and they say to me, ''Get control over the problems in Iraq,'' whether that is changing the policy or making sure that the armor is there and that our military is properly supplied. ''What happened in Katrina? How could our government, when we saw those pictures on TV, how would could this be the United States?'' We look at third-world countries around the world and surely we go and support them, and yet in our own cities we saw the failure of the government. And unfortunately, at that time, very little ''buck stops here'' kind of response. People died unfortunately, billions of dollars in property loss, and just the bruising of the American psyche, not to mention the loss of personal lives in New Orleans and other places. It was so wrong on so many levels. I think that hurt America. But the key in what our responsibility is, Members of Congress and Americans together, is to say, let's learn from the errors. Let's learn from our mistakes. That is where the accountability, the balance of power, asking the questions, getting the answers, learning from those mistakes, whether it is in Iraq and finding out where those billions of dollars of cash have gone so it doesn't happen again, whether it is foreign policy or whether it is policy that affects everything in this country. We saw a bridge collapse. Are we looking at all the bridges in the United States to make sure that our infrastructure is safe?

Mr. ELLISON obviously is deeply involved and truly has been a great leader and hero to your community because you obviously knew exactly what needed to be done there. But these are the questions. Where is America today? And the only way we are going to continue to be this great country, this beacon around the world, is to be able to have a thriving democracy that doesn't let one end of the spectrum, in this case the executive branch, run over and not allow the Members of Congress and the American people to ask the questions, get the answers, learn and move forward in a very, very positive way, which is the American value that we all have.

Americans can do anything they want. We know that. But you can't have Washington stopping it. Unfortunately, until this most recent Congress of which we are all privileged to be a part, we had year after year after year where Congress unfortunately didn't do its job in many of our opinions. I am very proud to say that we are making many of the right moves here. We have a lot more work to do. Let's make no mistake about it. Americans demand and expect us to do our job, to do it with fervor and excitement and make sure we correct some of these mistakes and move forward.

But we need help from the executive branch. They have to realize there are limits to those responsibilities. There are no personal issues here, but responsibilities of moving this country ahead.

If everyone will get out of their corner a little bit and come together, I think we can solve all these problems and do it in a very positive way.

Mr. YARMUTH. I would like to recognize my colleague from New Hampshire with a question. And that is, we are about to engage in a fairly contentious series of votes concerning appropriations measures. According to article I, section 8, one of the most important powers that this Congress has is the power of the purse. As a matter of fact, in another Federalist Paper, number 58, James Madison said that, ''This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress from every grievance, and from carrying into effect every just and salutary measure.''

As we look forward to our deliberations and our discussions of the appropriations process, I would like the gentleman from New Hampshire to discuss our responsibilities in that regard.

Mr. HODES. Thank you. As I have listened to the colloquy we have had here on the floor today in this Chamber where such important issues of war and peace, spending, raising revenue are debated on a daily basis now and thinking about the beginnings of the country, and you have asked about the questions coming up about appropriations, and we have had passed numerous appropriations bills. I think we have passed 12 here in the House of Representatives. The Senate has not yet acted on all of them, because, of course, once we pass the appropriations bills, and they must originate under the Constitution here in the House of Representatives, they go to the Senate. The Senate has to pass them. They come back and forth and they go up to the President. Of course the President has now threatened a veto on the spending necessary to run the Federal Government, to run the program for health and human services, to educate our kids, to heal the sick, all the programs that we have in the Federal Government, he has threatened to veto. And then if he vetoes a bill as we saw with the SCHIP bill, it will come back here where Congress will have the power to vote to override that veto and put it into law despite what the President says. All those powers and all the debates arise out of what my colleague from Florida noted was a living, breathing document. This great democracy of ours comes down to the words and the spirit that are embodied in the Constitution of the United States

Many Americans around the country really have lost sight of the humble beginnings of the country and the need for the powers in article I.

□ 1815

We were a ragtag country, mostly woodsmen and woodswomen that were fighting against this imperial monarchy. We won a revolution and were then immediately faced with terrible challenges. We had no Navy. We had no commerce. Our Army was weak because we had just been through a revolution. We didn't have much money. We had no trade. We had few ambassadors. We had very few friends. It was the Constitution that had to lay out all the powers that would serve as the basis for what is now a $1 trillion a year appropriation in terms of what the Federal Government raises and spends, or borrows and spends in past Congresses.

The challenges we faced coming in here, we are faced with fiscal irresponsibility, in which Congress was borrowing and spending. In fact, the war in Iraq is a perfect example. That war, which is now suggested will cost $2.4 trillion when all is said and done and all is added up, has been done with borrowing. It has been done by putting it on the backs of our children and our grandchildren. Fiscal irresponsibility. Just waste of taxpayer money, which we were sent here to deal with.

The Constitution lays out clearly that it is Congress's duty to lay and collect taxes, duties, imposts and excises, words these days that don't mean very much. They are fancy, old-fashioned words. We have got to pay the debts and provide for the common defense and general welfare. We are allowed in Congress to borrow money on the credit of the United States because it was very important at the very beginning of the Nation that this government be given the power to deal commercially and get the money it needed in a responsible way to run the affairs of the country. But it was up to Congress to appropriate the money to run the programs, provide for the common defense and general welfare.

Today, we are faced with a tough situation and it will probably take us all through the fall as we deal with the President, who has threatened to veto the responsible measures that we, in Congress, coming together as voices of the people, have decided are necessary to run this country. It is up to Congress, really, to say what those programs should be because that is the power the Constitution gives us.

Mr. Speaker, I heard with great interest the quotes from Madison, the quotes in the book. There is another quote from Madison that really talks about why Congress is the place that provides for the welfare and defense of the country. Madison wrote in Federalist Papers No. 52, and the words, it's a little old-fashioned, but folks will get it, ''As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration,'' the Congress, ''should have an immediate dependence on, and an intimate sympathy with, the people''. In other words, it was clear from the founding of this Nation that this body, this hall, this place where we stand before there was C–SPAN, before there was television, this place is the place of the people.

The 435 people who gather here, each representing 650,000 or so people of the United States, are the folks who, in what I have described to my constituents as the hurly-burly of democracy, come together to decide how things should be governed, what kind of money do we need, and how are we going to spend it.

So that is what we are going to be seeing this fall play out. We don't know how it will end, where it is going to go. The Senate will have a role, certainly the President has a role. But so far it appears that with this President, the role now, unlike the past 6 years of the 109th, 108th, 107th, which, with all due respect for my colleagues on the other side of the aisle, the Republicans, were Republican-dominated Congresses where the veto word was never mentioned, all of the sudden the President has now decided that it is time to veto almost everything that is coming out of Congress. He vetoed SCHIP, a bill to ensure 10 million of our neediest children for health care. Vetoed. We are going to send it back. Threatened vetoes for our appropriations bills to run the Federal Government. He is going to send them back.

This is a new light, apparently, that has dawned on this President, that suddenly a Democratic Congress sending him legislation is all of a sudden going to be subject to vetoes. With this initiative, we are here to reassert the importance, the power, the responsibility of this Congress to act for the people who sent us here.

Mr. YARMUTH. I thank the gentleman from New Hampshire. I would like to yield to the gentleman from New York, with this segue; that we all come from different parts of the country. Isn't it amazing that the Constitutional Convention in its wisdom, the Founding Fathers, I think recognized that even if you had an all-powerful executive, that person, that man or woman could never know the needs and the priorities of every nook and cranny of the country and that you coming from New York or from New Hampshire or Ohio or Florida would all assimilate all of our needs and priorities into a budget and a priority list for the Nation. That is why he vested this type of power in the Congress and not in the executive branch.

Mr. HALL of New York. Mr. Speaker, I thank the gentleman. It is true that all of our areas and our districts around the country are different in many ways, but it is also true that they are the same, and our people have the same needs in many ways.

The gentleman from Florida talked about Hurricane Katrina. The gentleman from Minnesota mentioned the trailers that FEMA didn't know were contaminated with formaldehyde. Two weeks ago, in my district, the town of Deer Park discovered they had lead contamination in their highway department building and their town hall

that was measured at 5,000-plus parts per million of indoor air contamination of lead.

My office called and we got FEMA to send a trailer over 2 days later so they could set up some computers and telephones and at least have a rudimentary office in the parking lot next to their closed-down office being remediated for lead contamination.

Three days later, the following Monday, I found that FEMA had come and towed the trailer away because it was contaminated with formaldehyde. Two-plus years after Hurricane Katrina, they still don't know which of their trailers have formaldehyde in them and which ones don't.

That is why oversight is needed. Whether it is the Veterans' Affairs Committee, which has performed significant oversight, whether it is the Transportation and Infrastructure Committee looking at Coast Guard sweetheart deals with military contractors that resulted in eight vessels being lengthened by 13 feet and rendered unseaworthy, the 123s, as they call them, so they are now being scrapped in Baltimore Harbor, or whether it is oversight of the conduct of the war in Iraq, this body needs to perform oversight, and I am glad after the last 6 years, it is finally doing so.

Mr. YARMUTH. Mr. Speaker, we have just about 5 minutes left, so I thought all my colleagues would like a last chance to talk about what article I means to them and where they think we in this Congress can do our best work in furtherance of the goals of article I.

Mr. ELLISON. Mr. Speaker, when I think about article I, I think this passage in the Federalist Papers where it says that we are to be in intimate sympathy with the people, I got to tell you, that when I sat down along with my colleague Congressman HODES and Congressman KLEIN with the Financial Services Committee to listen to people who had faced foreclosure in their homes because of the subprime lending crisis, I thought about article I.

Mr. Speaker, I thought about article I because article I is that provision that empowers me as an individual Member of Congress to want to listen to people who are facing foreclosure; listen to the mortgage originators who say, yes, we do need to have some regulation of what we are doing, there are some cowboys out there; to listen to these community bankers; and to listen to people who say, look, I made all my mortgage payments, but there is a foreclosure on the left and a boarded building on the right, and my house where I paid every payment is now suffering loss in the value of it because of this foreclosure crisis.

I was in intimate contact with article I as I sat there in earnest and sincere humility listening to people and what they were going through, when I was so proud to sit there on that committee to be able to respond to the people. Because we have to go back there every 2 years. We can't take a vacation from the people in the House. We got to listen every week. Week in, week out, we are in touch with our folks.

So Mr. Speaker, Mr. YARMUTH, I just wanted to say that article I, what it means to me is sympathy with the people and action on their behalf.

Mr. HODES. Mr. Speaker, I can't help but think about the importance of the power of the purse. James Madison said, ''The House of Representatives can not only refuse, but they alone can propose the supplies requisite for the support of government.''

The power over the purse is our weapon to use, and I am hoping that this Congress will no longer be the President's enabler when it comes to his misguided policy in Iraq. Earlier this week, he asked for an additional $46 billion for the wars in Iraq and Afghanistan, bringing the total request this year to almost $200 billion. By the time we are done, we are going to be at $2.4 trillion in Iraq. That is enough to provide college educations for every student who wants to go to a 4-year college for free at a private college or university. We could provide health care for every American for a year for the money we are spending.

It is going to be up to Congress to make tough decisions on whether or not we are going to use the power of the purse to take charge of this President's misguided policy.

So I am in contact and intimate sympathy with my constituents in New Hampshire who have said to me loud and clear, ''Do something to stop this President's policies in Iraq.''

Ms. SUTTON. Mr. Speaker, just briefly, I thank the gentleman for the time. As we began, the 2006 election was not simply a change of course, but a return to checks and balances. Members were elected, as my colleague over here says, to hear from their constituents. We were also elected to speak for our constituents, and we have to be their voice. That is what article I is all about.

So I am glad that this is probably the beginning of many hours to come, where we are going to come to this House floor and we are going to talk about article I and reclaim that responsibility.

Mr. YARMUTH. I thank the gentlewoman. Finally, our president.

Mr. WALZ of Minnesota. Mr. Speaker, I thank my colleagues for being here. It couldn't have been put better. We represent the entire bread of this country, from New York to New Hampshire out to Minnesota, Kentucky down to Florida. And there is more to come and there will be more to talk about this.

I am just reminded, remember how the Constitutional Convention ended? All of us remember this story from school, where Benjamin Franklin was asked what he was thinking about, and he said, I remember looking at that sun sitting behind General Washington and thinking during the time that this was crafted, is that a rising or a setting sun? And he said when they had ended, I could say with happiness, it is a rising sun.

This country's democracy is still healthy, it is still moving forward, the checks and balances are still here, and this country knows that it is the true secret credit of where our greatness lies.

Mr. YARMUTH. Mr. Speaker, I thank the gentleman and I thank all my colleagues. It has been a wonderful hour. I think the dialogue we have had tonight not only discusses an important issue, but also reflects the greatness of the Founding Fathers because it created this body in which we can have this type of discussion. So I thank my colleagues once again. We will have many more discussions like this.

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

VACATING 5-MINUTE SPECIAL ORDER

The SPEAKER pro tempore. Without objection, the 5-minute special order of the gentleman from Texas (Mr. POE) is vacated.

There was no objection.

CRUEL AND UNUSUAL PUNISHMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Texas (Mr. POE) is recognized for 60 minutes.

Mr. POE. Mr. Speaker, I will address this house tonight on a very special issue. It is good to hear that the speakers prior to me used as the basis of their dialogue the Constitution.

Far too often it seems to me that in this House we talk and pontificate about all kinds of things, but sometimes we forget the basis for all legislation, the basis for what we do, the basis for the oath that we took as Members of Congress, was to support the Constitution of the United States.

□ 1830

Like many Members of Congress, I carry a pocket Constitution with me to refer to from time to time. I want to read just one portion of the U.S. Constitution. It is the eighth amendment to the Constitution. We call the first 10 amendments to our Constitution the Bill of Rights.

It says in the eighth amendment that excessive bail should not be required, nor excessive fines imposed. It also says nor cruel and unusual punishments inflicted. You notice the phrase is ''cruel and unusual punishment.'' Far too often some quote this phrase in the Constitution as cruel or unusual. That is not the law and it has never been the law. The law is punishment should not be cruel and unusual.

A little history is in order. Our forefathers that wrote this Constitution did not come up with that phrase. It

goes all of the way back to the English Bill of Rights from 1689. Most of the colonists had English heritage, and when they formed their federations and the States and colonies, they enacted certain laws. In those laws and later their State constitutions, they included the phrase that punishment should not be cruel and unusual.

Then when our forefathers wrote this Constitution and made it the law, this eighth amendment was added to make sure that punishment was not cruel and unusual. So that is a little basis for where we came up with this phrase. There have been many debates over the years as to what does that mean, cruel and unusual punishment. Not many Supreme Court cases are involved in what the definition is. But there is one. In 1878, the Supreme Court of the United States in a case called Wilkerson v. Utah tried to define what the phrase ''cruel and unusual'' meant. Here is what they said: It is safe to affirm that punishments of torture, such as drawing and quartering, emboweling alive, such as took place in the movie Braveheart with William Wallace, beheading, public dissecting, and burning alive, and all others in the same line of unnecessary cruelty, are forbidden by the eighth amendment to the Constitution. I doubt there are many Americans who would disagree with that interpretation of what ''cruel and unusual'' means.

But we have a new issue before us today, and this issue is coming before the United States Supreme Court which meets right down the street from us. Those nine members of the Supreme Court have decided to take two cases from Kentucky that deal with the issue of cruel and unusual punishment.

Two men in Kentucky received the death penalty for crimes against the citizens of Kentucky. And they argue now, years later, that the means by which they are executed is cruel and unusual. That means, Mr. Speaker, is by lethal injection. Kentucky's lethal injection procedures are the same as many States, including my home State of Texas. Just to be clear, three chemicals are used for lethal injection. The first is sodium thiopentothal which renders a person unconscious, and pavulon which paralyzes the muscles, including those which control breathing, and then potassium chloride which causes cardiac arrest. Those are the three chemicals that most States use and are administered to the person who has received the death penalty and is to be executed for their crimes.

The Supreme Court will consider one of these cases, it is called Baze v. Rees, the way that lethal injection is actually administered by the administrating process, whether it causes severe pain such that it is a violation of the cruel and unusual punishment provision of the eighth amendment. Baze was scheduled to die on September 25, 2007, for the 1992, that's right, 15 years ago he murdered a sheriff and deputy sheriff who were trying to serve him with a warrant. The Kentucky Supreme Court stayed his execution pending the outcome of the Supreme Court decision.

The second case involves the execution of a Thomas Bowling, also from Kentucky. In 1990, that is 17 years ago, he killed Tina and Edward Early outside their Lexington dry cleaning business. He also shot the Early's then 2-year-old son, but the son did not die. He was able to survive. Bowling was supposed to be executed 3 years ago, in 2004, but his execution was halted in part because of a challenge on how the State of Kentucky executes prisoners.

Both of these offenders, Baze and Bowling, sued the Commonwealth of Kentucky in 2004 claiming lethal injection amounts to cruel and unusual punishment and violates the eighth amendment to the Constitution. The State Supreme Court of Kentucky ruled against both of these men, but the U.S. Supreme Court now will hear their case. This marks the first time that the United States Supreme Court will address the merits of lethal injection without also a request for a stay of execution.

The Supreme Court's precedent is that the death penalty and the method of execution must not be ''contrary to evolving standards of decency'' and may not inflict ''unnecessary pain.'' Let me say that again. The Supreme Court says that the method of execution must not be contrary to evolving standards of decency and may not inflict unnecessary pain.

Our Supreme Court really has only ruled on a direct method of execution once, and that was in 1878 when it upheld the use of a firing squad for execution. But since that time, the Supreme Court in 1972 stopped all death penalty cases because of a different legal issue. The issue was that juries that decided whether a person should get the death penalty or not had too much discretion in making that decision. So the Supreme Court struck down death cases in the United States until State law conformed with the Supreme Court ruling, and then jurors were given a more exact way of determining whether the person should live or die. I am not going to go into those issues at this time, but basically the jury is asked a series of questions, and based upon the way they answer the questions, the person would receive the death penalty or a life sentence. In 1976, juries once again started hearing death penalty cases and making that decision.

Mr. Speaker, as you know, prior to coming to this House, I served in Texas first as a prosecutor in the district attorney's office in Houston for 8 years, and I also served on the bench trying felony cases after that for 22 years. During those 8 years when I served as a prosecutor, I tried death penalty cases. And those people that I tried when I was a prosecutor have all been executed.

When I served on the bench, most of those individuals who were tried and juries heard those cases, those people who received the death penalty have also been executed. But there are still some even now who are on death row.

I want to make it clear that judges do not determine the death penalty in this country. We do not give that power to one person. We want and make juries determine whether a person should live or die for the crimes they have committed. It is a mistaken belief among a lot of Americans that judges assess the death penalty. We just sentence the person to the death penalty if the jury has ordered the death penalty in that particular case.

So it is 12 people from the community who set the community standard on the conduct on the individual who appears in court. I am a great believer in that. I believe juries should be the ones and it should be a unanimous decision before we take a person's life for the crimes they have committed.

And guilt should never be an issue. What I mean by that, juries must be absolutely convinced beyond all doubt that a person committed this crime before they assess the death penalty. I was very careful as a trial judge over those 22 years on the numerous death penalty cases I tried to make sure that the rule of law was enforced in every situation because of the fact that the person that is on trial receives the ultimate punishment.

I am actually one who believes in numerous appeals on death penalty cases, to have it reviewed by other courts. I just wish courts, including our Supreme Court, would not take so long to make those decisions, that they should review those questions of guilt and the constitutional rights of the offender, make sure that those are reviewed quickly and not take years and years. That does not promote any form of justice either for the offender or for the victim in the case.

The State of Texas, as many know, has executed more folks than any other State. Let me just mention a little history here. Before it was even a part of the United States and before it was even a country, Texas was a country for 9 years from 1836 to 1845. But even before that time, Texas assessed the death penalty and death penalty cases were assessed by hanging. That was done until 1923, and then the State of Texas moved to the electric chair until the Supreme Court stayed all executions. And then lethal injection has been used ever since 1976. Texas was the first State to use lethal injection in 1982 as the means of punishing a person who received the death penalty.

There are 38 States now that assess the death penalty or have death penalty statutes on their books; 37 of those use lethal injection. Nebraska still uses electrocution. So 38 States, most of the States make that decision that some cases are so bad that the death penalty should be a form of punishment in those cases.

Now, I say all of that to address just one case. There are many cases that I could mention here. It would fill more than my allotted 60 minutes, but I want to talk of one case that occurred in my district back in Texas in Port Arthur. It involves a person by the name of Elroy Chester. He was born in Port Arthur in 1969. His criminal record begins in 1987 when he turned 18 years of age. I have before me here, Mr. Speaker, the 4-page resume of Elroy Chester. I don't have time to read all of the life and times of Elroy Chester, but I would like to put his rap sheet, as we call it in the vernacular, into the RECORD.

STATE OF TEXAS VS. ELROY CHESTER

CHRONOLOGY OF EVENTS

6/14/69—Elroy Chester born in Port Arthur, TX.

2/20/87—Burglary of a habitation, docket #48529.

2/25/87—Chester arrested for above burglary.

4/08/87—Chester released from jail via pretrial bond.

5/87—Chester graduated from Abraham Lincoln H.S. in Port Arthur.

5/09/87—Burglary of a habitation, docket #48794.

5/17/87—Chester arrested for above burglary.

8/03/87—Chester convicted on both cases, 10 years probation on both #48529 & #48794.

8/07/87—Chester transferred to TDC (shock probation).

11/04/87—Chester returned to Jefferson County Jail from TDC.

11/09/87—Chester released per order of the court.

3/28/88—Chester arrested on MTRP warrants on both probation cases.

3/29/88—Chester released per order of the court.

5/11/88—Burglary of a habitation docket #50635.

5/25/88—Burglary of a habitation, docket #50633.

6/09/88—Chester arrested for both above burglaries.

7/28/88—MTRP's filed on both probation cases.

12/19/88—Chester convicted on #50635, sentenced to 13 years TDC, revoked probations.

4/07/89—Chester transferred to TDC.

2/13/90—Chester paroled from TDC.

3/16/90—Chester arrested for evading arrest, theft and possession of criminal instrument.

3/19/90—Chester released, accusation up.

4/01/90—Burglary of a habitation, 2 counts aggravated assault reported, case against Chester refused by DA 1/08/91.

5/31/90—Chester appeared in court on evading case, convicted, 3 days in jail.

5/31/90—Chester released, time served.

8/19/91—Chester arrested for UCW (misd).

8/19/91—Chester released via PR bond.

10/15/91—Chester arrested for parole warrant.

11/18/91—Chester transferred from Jefferson County Jail to Bexar County.

9/01/92—Chester arrested for possession of marijuana (misd).

9/04/92—Chester released, accusation up.

9/27/92—Aggravated sexual assault/Burglary.

10/20/92—Chester arrested on warrant for above marijuana case.

10/21/92—Chester released via PR bond.

2/01/92—Chester arrested on parole warrant.

1/11/94—Chester transferred to TDC.

3/21/97—Chester paroled from TDC.

8/03/97—Burglary of a habitation (Lorcin .380 pistol stolen). Victim: Kenneth Risinger.

8/09/97—Aggravated sexual assault. Victim: A minor.

8/14/97—Attempted aggravated robbery. Victim: Candice Tucker.

8/15/97—Aggravated robbery. Victim: Dolly DeLeon.

8/16/97—Burglary of a habitation, Victim: Nancy Morales.

8/16/97—Attempted capital murder. Victim: Oscar Morales.

8/16/97—Attempted capital murder. Victim: Matthew Horvatich.

9/20/97—John Henry Sepeda murdered.

10/25/97—Burglary of a habitation. Victim: James Haney.

11/08/97—Burglary of a habitation. Victim: Marlene King.

11/08/97—Burglary of a habitation. Victim: Kay Barnes.

11/15/97—Etta Mae Stallings murdered. (.22 pistol stolen).

11/15/97—Attempted capital murder/2 counts. Victims: Peggy Johnson and Debra Ferguson.

11/20/97—Cheryl DeLeon murdered.

11/21/97—Four suspected gang members arrested and charged in Sepeda's death: Michael Lieby; David Lieby, Joseph Garcia and Bryan Garsee.

11/25/97—Arthur Jupiter also arrested and charged in the Sepeda murder.

12/07/97—Attempted capital murder. Victim: Lorenzo Coronado.

12/21/97—Albert Bolden, Jr. found murdered.

1/22/98—Grand jury indicts the Lieby's and Jupiter for capital murder (Sepeda), Garsee for burglary of Sepeda home but no-bills Garcia in the murder.

2/06/98—Willie Ryman, III murdered.

2/08/98—Chester arrested for violation of city ordinance, other charges added.

2/09/98—Chester directs investigators to Lorcin .380. Chester gives investigators sworn statement (confession) #1.

2/10/98—Chester gives investigators sworn statement #2. Chester directs investigators to jewelry.

2/11/98—Chester gives investigators sworn statements #3, #4, and #5.

2/12/98—Chester indicted Jefferson County Grand Jury: 2 counts capital murder (Ryman and Stallings), 2 counts murder (DeLeon and Bolden).

2/26/98—Chester indicted for capital murder of Sepeda.

2/26/98—Attorneys Douglas Barlow and Layne Walker appointed to defend Chester.

2/26/98—Capital murder charges against David Lieby, Michael Lieby and Arthur Jupiter are dismissed by DA (regarding the Sepeda murder).

8/03/98—Jury selection begins in capital murder trial of Chester (Ryman).

8/13/98—Jury selection completed, Chester enters a guilty plea.

8/17/98—Punishment phase of the trial begins.

8/24/98—Following closing arguments the jury begins deliberations.

8/24/98—After jurors deliberated for 12 minutes, Chester was sentenced to death.

Mr. Speaker, Chester's crime spree started when he was young with burglaries, and it ends up with capital murder in 2004. I want to tell you something about this case as to just tell you the type of people that live among the rest of us and what they do and how eventually they are caught.

In September of 1997, John Henry Sepeda, and the people I mention tonight are or were real people. He was an elderly man in southeast Texas and he was bedridden and he was shot to death in his home in his bed. Four local gang members were first arrested and later released. And Chester, when he was finally released, confessed to this murder.

Three months later in November of 1997, Etta Stallings, 86 years of age, was gunned down in her home where she happened to be caring for her invalid husband. A 22-caliber revolver was stolen from her home, and nearby during the same evening, two women were shot with a 22-caliber handgun as they lay in their bed. Shots came through an open window. Both women suffered multiple gunshot wounds, but miraculously they lived. The dog that was shot did not live.

Chester later when he was arrested confessed to all of these crimes.

Five days later Cheryl Deleon, an employee at a cafeteria in Port Arthur, Texas, was found shot to death outside her front door. Robbery was the apparent motive, and there weren't any witnesses.

The next month, in December 1997, Lorenzo Coronado was shot in the head as he lay in his bed after someone broke in. He miraculously also survived even though he was shot in the head.

Two weeks later, Albert Bolden, another real person, was found dead in his residence in Port Arthur. He had been shot in the head, but he had been dead for some time before his body was found.

□ 1845

Then finally, just a few months later in February of 1998, Port Arthur's reign of terror ended with the murder of Willie Ryman, III.

Mr. Speaker, Willie Ryman was a firefighter at Port Arthur Fire Department. He was twice named Firefighter of the Year, and in February of 1998 he decided he would stop by his sister's home to check on his two teenage nieces who were there alone. His sister was also a firefighter, and he wanted to make sure that they were okay because his sister was working as well.

Ryman was concerned about the nieces' welfare. It's interesting he was very concerned because he had heard of this crime spree that was going on in Port Arthur. Unbeknownst to him, it was all Chester's doing, this crime spree.

Be that as it may, he comes into the house, and he found that it was dark. He turned on the light, and he confronted a masked intruder who pointed a .380 revolver pistol at him and shot him in the chest. He fell right there in this room, and he died in his own blood.

Ryman never knew that the intruder had already been in the house and sexually assaulted both of the teenage girls. Not only had they been sexually assaulted, they'd been tied up and duct-taped, as well as one of their friends.

Chester left the house and saw Ryman's fiancee in his truck parked in the driveway. In other words, the

fiancee had come to the house looking for Ryman, wanting to know why he hadn't returned. Chester tried to gain entry into this truck, but she locked the doors. Chester fired several shots into the vehicle but missed Ryman's fiancee, and then he takes off in the darkness of the night running.

He was later arrested for a minor city ordinance violation in Port Arthur, and while he was in custody, he was charged with several offenses, including burglary of the home where Ryman was killed.

The next day, Chester agreed to speak with the investigators, and they obtained a search warrant ordering a sample of Chester's blood and hair to be taken for comparison with evidence from the sexual assault victims.

He was taken to the district attorney's office to execute the warrant and obtain the samples, but before the blood samples could be taken and the hair samples could be taken, he blurted out that he killed ''the fireman.''

During the course of the search, the police found the jewelry that belonged to Kim DeLeon, that was Willie Ryman's sister and mother of the two girls that Chester sexually assaulted. This was the same property that had been taken at the time of the murder and the sexual assault.

Chester was in recent, unexplained possession of stolen property, which had been missing for only 30 hours. Police informed Chester that they'd found and recovered the stolen jewelry, found the masks that were used in the rapes in his residence, and so Chester volunteered to show the police where his gun was.

He had hidden the pistol over at his father's house, and here's what happened when they go to Chester's father's house. As Elroy Chester informed the police where he hid the gun, he also tried to reach for a gun he had hidden in that residence and pull it on the police, but the police forcefully and adequately and successfully took that gun away from him as well.

He later confessed to stealing Etta Stallings' jewelry. That's the 88-year-old woman that I mentioned some minutes ago that took care of her invalid husband and murdering her. He confessed to killing her. He confessed to killing John Sepeda, and he later confessed to the murders of DeLeon and Albert Bolden. Then he also confessed to other attempted capital murders of three other victims.

Now, his case has already worked its way to the Supreme Court once on a different issue, but yet, as he was tried in 1998, he has still not received his appropriate sentence.

And what was his sentence from the jury in 1998 after they heard about the death, murder, and pillaging that he committed in Port Arthur, the five murders, the numerous burglaries, the numerous sexual assaults, the attempted murders? The jury, Mr. Speaker, in 12 minutes, 12 minutes, assessed the death penalty for Elroy Chester.

Now, as I mentioned, both as a prosecutor and as a judge, I have heard several, many death penalty cases, but I've never heard a case where a jury only took 12 minutes to all agree on what should happen to this person who did these dastardly acts against other people in his community. It's a remarkable time frame. DWI cases take longer than 12 minutes for a jury normally to reach a verdict. That's how overwhelming his guilt was in this case, Mr. Speaker. So guilt is not an issue in this case. The 12-minute verdict is certainly remarkable, but guilt is not an issue.

But he also faces execution by lethal injection. So one issue is now before the Supreme Court, throughout the fruited plain in all States, whether or not lethal injection violates the eighth amendment prohibition against cruel and unusual punishment. That is one of the issues in his case, and he is avoiding his day with his Maker because of this issue.

But I think it goes further than that, Mr. Speaker. I don't think it's just an issue that the Supreme Court is going to decide whether or not lethal injection violates the eighth amendment provision, but whether the death penalty itself is a violation of the eighth amendment prohibition against cruel and unusual punishment.

Based upon prior rulings of the Supreme Court, it seems to me that there are at least three members of the Supreme Court that are always opposed to the death penalty as a form of punishment. Sometimes there's a fourth member opposed to the death penalty, and they find ways to prevent the death penalty. No matter what the circumstances are, even though State law, written by State legislators and the will of the people and the will of a jury of the community says otherwise, some of those members of the Supreme Court continue to look for ways to avoid assessing or allowing the death penalty, even though we had in this country the death penalty that goes all the way back to colonial days.

Going to the first issue, whether or not lethal injection is a violation of the eighth amendment, cruel and unusual punishment provision, my question is, if we don't use lethal injection, what do we use? All of these other forms of execution are basically no longer used, whether it's hanging, the firing squad, the gas chamber. So I ask the question, what would those who oppose lethal injection have the system, society, justice, the juries, the courts use as an alternative to lethal injection? I don't know the answer to that question.

Is the Supreme Court going to rule that the pain inflicted by the administration of lethal injection in itself is cruel or unusual? It will be interesting to see if they draw that fine line to say that since it is painful or could be painful, that violates the prohibition.

The real issue, though, is whether or not the death penalty will remain on the statutes of 38 States. Most countries don't have the death penalty. Our European friends don't use the death penalty. They criticize us a lot for the death penalty. Even Third World countries like Mexico, where crime is rampant, don't use the death penalty, and they do everything they can to prevent execution in this country of their nationals.

Some say that the death penalty is immoral, but let me ask you, what is moral about taking people like Elroy Chester and taking care of them for the rest of their natural life? What is moral about that? I don't think that that is very moral. Incarcerating a person for the rest of their lives where they have no responsibility, that the society takes care of them for the rest of their life and gives them, really, a place to live out forever, I do not think that that is a moral thing, in my opinion.

But be that as it may, we use the term ''justice'' quite frequently in courts of law. We use it in this Chamber, ''justice.'' What is justice? Well, justice to me seems to be the right decision for the right reason, but sometimes we compare justice to the scales of justice, where Lady Justice is holding the scales, and justice occurs when the scales are balanced, that they are not overweighted for one side or the other.

And what do we put on those scales? Well, maybe we put the concerns and the rights of the offender. But also, on the other side, what do we put? Maybe the rights of the community, of the public and of victims.

But be that as it may, justice only occurs when the scales of justice are balanced, and when either side is out of sync, we have injustice in our courts of law.

The defendants that are on death row, who hope that the death penalty may be thrown out, hope that the lethal injection system is thrown out have their concerns, but those people who have been murdered also have their day and rights in court.

You know, Mr. Speaker, the silent graves of the murdered cry out for justice in these types of cases for several reasons; not just the fact that the delays and the delays for execution of these sentences take so long, but by the method or, rather, by the total result of whether or not a person should receive the death penalty or not. If justice is delayed, it's denied.

So I would hope that the Supreme Court would review this law based upon American law, and I say that because our Supreme Court, Mr. Speaker, from time to time goes and uses international law and international court decisions to make determinations and interpret our United States Constitution. They've done that in the phrase ''cruel and unusual punishment'' in the past. They did that when they have said that 17-year-olds can't be executed. They made that decision even though it was the State law in several

States, including the State of Texas. So my question is, why do we go to Europe to make our decisions about our Constitution? After all, didn't we leave Europe and England because we didn't like the way they were doing things?

Some say that the death penalty doesn't deter, and we've heard all those arguments. Of course, it does deter one person from ever committing those crimes again. But my own concern is that justice demands that in some cases, like Elroy Chester, that the ultimate price for the crimes that they have committed should be given, and that is a person's forfeiture of their right to live.

Some people actually earn the death penalty on their own by their conduct, and I am one of those that believes that that is just in appropriate cases. An injustice would occur if he were allowed to have some other sentence other than what the jury verdict so imposed in his particular case.

So, Mr. Speaker, this whole issue of cruel and unusual punishment, the eighth amendment, the history of the eighth amendment, what the Supreme Court now interprets that to mean, the method of execution, execution in any form, all of those issues now once again will be before the nine black-robed Justices down the street, and it would seem to me that they should follow the Constitution to the letter, the historical content of the eighth amendment and where it came from and the history of it and uphold the right of States and, in some cases, appropriate cases, to let juries make a determination that a person should pay the ultimate price for the crimes they have committed against society.

They should make it very clear what method should be used in all cases for the execution of those like Elroy Chester who have earned the right to be executed for the crimes that they have committed, because you see, Mr. Speaker, justice is the one thing that we should always find in every case. Although the death penalty is a very serious punishment for crime, in cases of overwhelming guilt and overwhelming evidence and overwhelming cruelty and criminal conduct and a slew of murders, a person has earned the punishment that juries impose.

And that's just the way it is.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 58 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2352

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HASTINGS of Florida) at 11 o'clock and 52 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3963, CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

Mr. CARDOZA, from the Committee on Rules, submitted a privileged report (Rept. No. 110–408) on the resolution (H. Res. 774) providing for consideration of the bill (H.R. 3963) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 24, 2007.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on October 24, 2007, at 7:49 p.m.:

That the Senate passed without amendment H.R. 995.

That the Senate passed with an amendment and requests a conference with the House, appoints conferees H.R. 3043.

With best wishes, I am,

Sincerely,

LORRAINE C. MILLER,
Clerk of the House.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. DAVIS of California (at the request of Mr. HOYER) for today on account of the San Diego wild fires.

Mr. REYES (at the request of Mr. HOYER) for today on account of a death in the family.

Ms. SHEA-PORTER (at the request of Mr. HOYER) for today and October 25 on account of family medical reasons.

Mr. BUYER (at the request of Mr. BOEHNER) for today from noon and for the balance of the week on account of family illness.

Mr. LEWIS of California (at the request of Mr. BOEHNER) for today and the balance of the week on account of the ongoing fire disaster in his district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Mr. LAMPSON, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

Mr. SNYDER, for 5 minutes, today.

Mr. ELLISON, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

(The following Members (at the request of Mr. DENT) to revise and extend their remarks and include extraneous material:)

Mr. POE, for 5 minutes, October 31.

Mr. JONES of North Carolina, for 5 minutes, October 31.

Mr. WOLF, for 5 minutes, today.

Mr. DENT, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HASTINGS of Florida, for 5 minutes, today.

ENROLLED BILLS SIGNED

Ms. Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills of the House of the followings titles, which were thereupon signed by the Speaker:

H.R. 327. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to develop and implement a comprehensive program designed to reduce the incidence of suicide among veterans.

H.R. 1284. An act to increase, effective as of December 1, 2007, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

H.R. 3233. An act to designate the facility of the United States Postal Service located at Highway 49 South in Piney Woods, Mississippi, as the ''Laurence C. and Grace M. Jones Post Office Building.''

ADJOURNMENT

Mr. CARDOZA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Thursday, October 25, 2007, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3861. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Bifenthrin; Pesticide Tolerance [EPA–HQ–OPP–2007–0471; FRL–8151–5] received October 18, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3862. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Fenamidone; Pesticide Tolerance [EPA–HQ–OPP–2006–0848; FRL–8152–9]

received October 18, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3863. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pesticide Data Requirements; Technical Amendments [EPA–HQ–OPP–2004–0387;FRL–8114–1] received October 18, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3864. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pesticides: Redesignation of part 158; Technical Amendments [EPA–HQ–OPP–2004–0387; FRL–8116–2] received October 18, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3865. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pesticides; Data Requirements for Biochemical and Microbial Pesticides [EPA–HQ–OPP–2004–0415; FRL–8109–8] (RIN: 2070–AD51) received October 18, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3866. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Revisions to the Single Family Mortgage Insurance Program [Docket No. FR–4831–F–02] (RIN: 2502–AI03) received October 17, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3867. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report entitled, ''Program Evaluation Activities of the Department of Health and Human Services—Performance Improvement 2007,'' pursuant to Section 241(b) of the Public Health Service (PHS) Act, as amended by the Preventive Health Amendments of 1993, summarizing the findings of the evaluations of PHS programs authorized under Section 241(a); to the Committee on Energy and Commerce.

3868. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Federal Implementation Plans for the Clean Air Interstate Rule: Automatic Withdrawal provisions [EPA–HQ–OAR–2007–0510; FRL–8485–7] received October 18, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3869. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Exemptions from Licensing, General Licenses, and Distribution of Byproduct Material: Licensing and Reporting Requirements (RIN: 3150–AH41) received October 17, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3870. A letter from the Acting Director Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Inseason Adjustments [Docket No. 060824226–6322–02] (RIN: 0648–AW07) received October 17, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

3871. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 7 [Docket No. 070706268–7513–02] (RIN: 0648–AV21) received October 17, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

3872. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery [Docket No. 0612243160–7448–02; I.D. 112505A] (RIN: 0648–AU07) received October 17, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

3873. A letter from the Director, National Oceanic and Atmospheric Administration, transmitting a report entitled, ''Federal Assistance for Interjurisdictional and Anadromous Fisheries, Program Report 2005–2006''; to the Committee on Natural Resources.

3874. A letter from the Director, National Oceanic and Atmospheric Administration, transmitting the National Marine Fisheries Service Strategic Plan for Fisheries Research, as required by Section 404 (a) of the Magnuson-Stevens Fishery Conservation and Management Act; to the Committee on Natural Resources.

3875. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting the Agency's report entitled, ''National Water Quality Inventory: 2002 Report to Congress,'' pursuant to 33 U.S.C. 1315(b)(2); to the Committee on Transportation and Infrastructure.

3876. A letter from the Assistant Secretary for Reserve Affairs, Department of Defense, transmitting the biennial report entitled, ''Report on the Montgomery G.I. Bill for Members of the Selected Reserve'' for Fiscal Year 2006, pursuant to 10 U.S.C. 16137 Public Law 106–65, section 546; jointly to the Committees on Armed Services and Veterans' Affairs.

3877. A letter from the General Counsel, Office of Compliance, transmitting a Report on Inspections for Compliance with the Public Access Provisions of the Americans with Disabilities Act Under Section 210 of the Congressional Accountability Act, pursuant to Public Law 104–1, section 210(f) (109 Stat. 15); jointly to the Committees on House Administration and Oversight and Government Reform.

3878. A letter from the Associate Deputy Secretary, Department of the Interior, transmitting the Department's report on the impacts of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands for Fiscal Year 2006, pursuant to Public Law 108–188, section 104(h); jointly to the Committees on Natural Resources and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CARDOZA: Committee on Rules. House Resolution 773. Resolution providing for consideration of the bill (H.R. 3867) to update and expand the procurement programs of the Small Business Administration, and for other purposes (Rept. 110–407). Referred to the House Calendar.

Ms. SLAUGHTER: Committee on Rules. House Resolution 774. Resolution providing for consideration of the bill (H.R. 3963) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes (Rept. 110–408). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BECERRA (for himself and Mr. NUNES):

H.R. 3951. A bill to amend the Internal Revenue Code of 1986 to modify and make permanent the election to treat certain costs of qualified film and television productions as expenses; to the Committee on Ways and Means.

By Mr. MCGOVERN (for himself, Mr. FRANK of Massachusetts, Mr. NEAL of Massachusetts, Ms. TSONGAS, Mr. CAPUANO, Mr. LYNCH, Mr. MARKEY, Mr. OLVER, Mr. DELAHUNT, and Mr. TIERNEY):

H.R. 3952. A bill to designate the facility of the United States Postal Service located at 901 Pleasant Street in Attleboro, Massachusetts, as the ''Max Volterra Post Office Building''; to the Committee on Oversight and Government Reform.

By Mr. MAHONEY of Florida (for himself, Ms. GIFFORDS, Mr. HIGGINS, Mrs. BOYDA of Kansas, Mr. KAGEN, Mr. BISHOP of New York, Mr. ISRAEL, Mr. GORDON, Mr. PATRICK MURPHY of Pennsylvania, Ms. CASTOR, Mr. BOYD of Florida, Mr. HILL, Mr. WALZ of Minnesota, Mr. COSTA, Mr. CARDOZA, Mr. WEXLER, Ms. HIRONO, Mr. PETERSON of Minnesota, Mr. ROSKAM, and Mr. WALBERG):

H.R. 3953. A bill to amend the Internal Revenue Code of 1986 to allow the deduction for property taxes in determining the amount of the alternative minimum taxable income of any taxpayer (other than a corporation); to the Committee on Ways and Means.

By Mr. FILNER:

H.R. 3954. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to reimburse certain volunteers who provide funeral honors details at the funerals of veterans; to the Committee on Veterans' Affairs.

By Mr. LIPINSKI (for himself, Mrs. BIGGERT, Mr. JACKSON of Illinois, Mr. KIRK, Mr. COSTELLO, and Mr. HASTERT):

H.R. 3955. A bill to provide for educational partnerships between science museums and National Laboratories; to the Committee on Science and Technology.

By Mr. SPACE (for himself, Mr. GUTIERREZ, and Mr. FRANK of Massachusetts):

H.R. 3956. A bill to authorize the Secretary of the Treasury to prescribe the weights and the compositions of circulating coins, and for other purposes; to the Committee on Financial Services.

By Mr. MATHESON:

H.R. 3957. A bill to increase research, development, education, and technology transfer activities related to water use efficiency and conservation technologies and practices at the Environmental Protection Agency; to the Committee on Science and Technology.

By Mrs. BACHMANN (for herself, Mr. RYAN of Wisconsin, Mr. KIRK, Mr. FEENEY, Mr. HERGER, Mrs. BLACKBURN, Mrs. BONO, Mr. ROHRABACHER, Mr. MILLER of Florida, Mr. SOUDER, Mr. FLAKE, Mr. HOEKSTRA, Mr. SHADEGG, Mr. GOODE, Mr. DOOLITTLE, Mr. FORTUÑO, Mrs. MYRICK, Mr. WELDON of Florida, Ms. FOXX, Mr. CARTER, Mr. DANIEL E. LUNGREN of California, Mr. COOPER, Mr. HENSARLING, Mr. GARRETT of New Jersey, Mr. CAMPBELL of California, Mr. CULBERSON, Mr. SENSENBRENNER, Mr. BURTON of Indiana, Mr. DAVIS of Kentucky, Mr. BARTLETT of Maryland, Mr. CONAWAY, Mr. PITTS, Mr.

LUCAS, Mr. CANTOR, Mr. DAVID DAVIS of Tennessee, Mr. WALBERG, Mr. KLINE of Minnesota, Mr. GOHMERT, Mr. BARRETT of South Carolina, and Mr. PAUL):

H.R. 3958. A bill to amend title 31, United States Code, to require certain additional calculations to be included in the annual financial statement submitted under section 331(e) of that title, and for other purposes; to the Committee on Oversight and Government Reform, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARRETT of New Jersey (for himself and Mr. FRANK of Massachusetts):

H.R. 3959. A bill to amend the National Flood Insurance Act of 1968 to provide for the phase-in of actuarial rates for certain pre-FIRM properties; to the Committee on Financial Services.

By Mr. KIND (for himself and Mr. CAMP of Michigan):

H.R. 3960. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan repayments made under the Indian Health Service Loan Repayment Program in return for service as a dentist; to the Committee on Ways and Means.

By Mr. MEEK of Florida:

H.R. 3961. A bill to amend the Internal Revenue Code of 1986 to provide relief with respect to the children of members of the Armed Forces of the United States who die as a result of service in a combat zone; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 3962. A bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund; to the Committee on Ways and Means.

By Mr. DINGELL (for himself and Mr. RANGEL):

H.R. 3963. A bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Oversight and Government Reform, House Administration, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODE:

H.J. Res. 60. A joint resolution proposing an amendment to the Constitution of the United States providing for Representatives to be chosen every four years, and to limit the number of times Senators and Representatives may be elected; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska (for himself, Mr. ORTIZ, Mr. WALZ of Minnesota, Mr. BRADY of Pennsylvania, Mrs. CHRISTENSEN, Mr. ABERCROMBIE, and Ms. BORDALLO):

H. Con. Res. 240. Concurrent resolution commending the Alaska Army National Guard for its service to the State of Alaska and the citizens of the United States; to the Committee on Armed Services.

By Mr. OBERSTAR (for himself, Mr. MICA, Mr. DEFAZIO, and Mr. DUNCAN):

H. Res. 772. A resolution recognizing the American Highway Users Alliance on the occasion of its 75th anniversary, and for other purposes; to the Committee on Transportation and Infrastructure.

MEMORIALS

Under clause 3 of rule XII,

209. The SPEAKER presented a memorial of the Senate of the State of California, relative to Senate Joint Resolution No. 7 urging the California Congressional delegation to support H. Con. Res. 25; jointly to the Committees on Agriculture, Energy and Commerce, and Natural Resources.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 39: Ms. SUTTON.

H.R. 840: Mr. BERRY and Mr. MOORE of Kansas.

H.R. 927: Ms. GRANGER and Mr. TERRY.

H.R. 1000: Mr. TOM DAVIS of Virginia.

H.R. 1076: Mr. CARTER.

H.R. 1222: Mrs. WILSON of New Mexico.

H.R. 1223: Mrs. WILSON of New Mexico.

H.R. 1225: Mr. KUCINICH.

H.R. 1295: Mr. JONES of North Carolina.

H.R. 1321: Mr. SOUDER and Mrs. CHRISTENSEN.

H.R. 1328: Mr. MATHESON.

H.R. 1390: Mr. TOWNS.

H.R. 1420: Mr. GENE GREEN of Texas.

H.R. 1553: Mr. MURTHA.

H.R. 1809: Ms. MCCOLLUM of Minnesota.

H.R. 1845: Mr. CAPUANO, Mr. MARSHALL, Mr. CUMMINGS, and Mr. HODES.

H.R. 1881: Mr. MILLER of North Carolina and Mr. OBERSTAR.

H.R. 1927: Mr. ABERCROMBIE.

H.R. 2017: Mr. WEXLER.

H.R. 2023: Mr. CAPUANO.

H.R. 2032: Mr. WYNN.

H.R. 2040: Mr. KUCINICH.

H.R. 2188: Ms. WOOLSEY.

H.R. 2234: Mr. BLUMENAUER, Mr. DOYLE, and Mr. ENGEL.

H.R. 2266: Mr. HOLT.

H.R. 2405: Mrs. MALONEY of New York and Mr. BILBRAY.

H.R. 2406: Mr. TOWNS.

H.R. 2452: Mr. SHAYS.

H.R. 2508: Mr. CALVERT.

H.R. 2510: Mr. TIAHRT.

H.R. 2549: Ms. WASSERMAN SCHULTZ.

H.R. 2606: Mr. RUPPERSBERGER.

H.R. 2705: Mr. SHERMAN.

H.R. 2758: Mr. WU.

H.R. 2762: Ms. CARSON, Mr. HALL of New York, Mr. ENGLISH of Pennsylvania, Mr. SARBANES, Mrs. CAPPS, Ms. BALDWIN, Mr. BOOZMAN, Mr. MEEKS of New York, Mr. DEFAZIO, Mrs. SCHMIDT, Mr. PORTER, Mr. ALTMIRE, Mr. PAYNE, Ms. LORETTA SANCHEZ of California, Ms. HOOLEY, Mr. TIM MURPHY of Pennsylvania, Mr. ANDREWS, and Mr. RUPPERSBERGER.

H.R. 2802: Ms. HOOLEY.

H.R. 2833: Mr. SESTAK.

H.R. 2864: Mr. LOEBSACK.

H.R. 2933: Mr. SERRANO, Mr. COBLE, and Ms. CORRINE BROWN of Florida.

H.R. 3010: Mr. STARK, Ms. JACKSON-LEE of Texas, Mr. LATOURETTE, and Mr. LYNCH.

H.R. 3151: Mr. POE.

H.R. 3191: Mr. HILL and Mr. PETERSON of Minnesota.

H.R. 3223: Mr. PALLONE.

H.R. 3251: Mr. CASTLE.

H.R. 3314: Mr. MCDERMOTT and Mr. EMANUEL.

H.R. 3389: Mr. DREIER.

H.R. 3406: Ms. CLARKE.

H.R. 3429: Ms. WOOLSEY.

H.R. 3457: Ms. BERKLEY, Mr. LINCOLN DAVIS of Tennessee, Mr. REHBERG, and Mr. MCNERNEY.

H.R. 3477: Mrs. BLACKBURN.

H.R. 3486: Mr. ALTMIRE, Mr. SPACE, and Mr. RYAN of Ohio.

H.R. 3496: Mr. BILBRAY.

H.R. 3498: Mr. DAVIS of Illinois.

H.R. 3499: Mr. MICHAUD, Ms. CASTOR, Mr. DELAHUNT, Mr. CAPUANO, and Ms. WATSON.

H.R. 3541: Mr. KIRK, Mr. ALLEN, and Mr. KILDEE.

H.R. 3543: Mr. BISHOP of Georgia.

H.R. 3546: Mr. KIND, Mr. SIRES, and Mr. CARNAHAN.

H.R. 3548: Mr. KAGEN and Ms. SHEA-PORTER.

H.R. 3585: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 3610: Mr. GEORGE MILLER of California.

H.R. 3622: Mr. ELLISON, Mr. DOYLE, Mr. MILLER of North Carolina, Mrs. MYRICK, and Mr. SMITH of Washington.

H.R. 3627: Mr. KAGEN.

H.R. 3630: Mr. MCNERNEY.

H.R. 3635: Mr. SKELTON and Ms. ROS-LEHTINEN.

H.R. 3670: Ms. LORETTA SANCHEZ of California, Mr. FILNER, Ms. LINDA T. SÁNCHEZ of California, Ms. MATSUI, Ms. SOLIS, Mr. HONDA, and Mrs. CHRISTENSEN.

H.R. 3684: Mr. ARCURI and Mrs. MALONEY of New York.

H.R. 3691: Mr. ARCURI, Mr. BOSWELL, Ms. CLARKE, Mrs. GILLIBRAND, Mr. HONDA, Mr. JACKSON of Illinois, Mr. JOHNSON of Georgia, Mrs. JONES of Ohio, Mr. COHEN, Mr. CUMMINGS, Mr. INSLEE, Mr. COOPER, Ms. LORETTA SANCHEZ of California, Mr. CUELLAR, Mr. BAIRD, and Mr. EDWARDS.

H.R. 3737: Ms. SOLIS.

H.R. 3793: Mrs. EMERSON, Mr. TERRY, Mrs. GILLIBRAND, Mr. TIERNEY, Mr. FORBES, Mr. BOUCHER, and Mr. PETERSON of Minnesota.

H.R. 3801: Ms. HARMAN.

H.R. 3828: Ms. CORRINE BROWN of Florida, Mr. MORAN of Virginia, and Ms. KILPATRICK.

H.R. 3842: Mr. AL GREEN of Texas.

H.R. 3846: Mr. SARBANES, Mr. HONDA, Ms. LORETTA SANCHEZ of California, Mr. RUSH, Mr. COHEN, Mr. CLAY, Mr. SERRANO, and Mr. KUCINICH.

H.R. 3861: Mr. KENNEDY, Mr. HONDA, Ms. ZOE LOFGREN of California, and Ms. ESHOO.

H.R. 3865: Mr. ALLEN.

H.R. 3882: Ms. CORRINE BROWN of Florida, Mr. MORAN of Virginia, Mr. LUCAS, Mr. DOOLITTLE, Mr. DANIEL E. LUNGREN of California, Mr. PITTS, Mr. GINGREY, Mr. Fortuño, Mr. WILSON of South Carolina, Mr. MANZULLO, Mr. JORDAN, Mrs. MCMORRIS RODGERS, Mr. NEUGEBAUER, Mr. HENSARLING, Mrs. MUSGRAVE, Mr. AKIN, Mr. DAVID DAVIS of Tennessee, Mr. BARRETT of South Carolina, Mr. WELDON of Florida, Mr. FEENEY, Mr. MARCHANT, Mr. FORTENBERRY, Mr. WAMP, Mr. SHADEGG, Mr. PRICE of Georgia, Mr. ROSKAM, Mr. CAMPBELL of California, Mr. GOODE, Mr. KUHL of New York, Mr. WALBERG, Mrs. BLACKBURN, and Ms. FOXX.

H.R. 3887: Mr. SHERMAN.

H.R. 3890: Mr. SHERMAN, Ms. DELAURO, Mr. WOLF, Mrs. TAUSCHER, Mr. HOLT, Mr. MCGOVERN, Mr. BURTON of Indiana, Mr. ACKERMAN, Mr. GRIJALVA, Mr. ENGEL, Mr. CROWLEY, Mr. OLVER, Mr. WU, and Ms. JACKSON-LEE of Texas.

H.R. 3908: Mr. BONNER.

H.R. 3918: Ms. CLARKE and Mr. WYNN.

H.R. 3921: Mrs. MCCARTHY of New York.

H.R. 3928: Ms. HIRONO, Ms. WOOLSEY, and Ms. SHEA-PORTER.

H.R. 3950: Mr. SESSIONS and Mr. MILLER of Florida.

H.J. Res. 48: Mr. DAVIS of Illinois.

H.J. Res. 54: Ms. HOOLEY, Mr. MANZULLO, and Mr. MCINTYRE.

H. Con. Res. 40: Mr. LUCAS.

H. Con. Res. 163: Mr. STARK.

H. Con. Res. 198: Ms. SHEA-PORTER and Mr. WELCH of Vermont.

H. Con. Res. 223: Mr. MORAN of Virginia.

H. Con. Res. 224: Mr. BLUMENAUER.

H. Con. Res. 230: Mr. TERRY.

H. Con. Res. 235: Mr. SHERMAN.

H. Res. 169: Mr. BOOZMAN and Mr. TERRY.

H. Res. 245: Mr. MARKEY.

H. Res. 542: Mr. FORBES.

H. Res. 550: Mr. SHERMAN.

H. Res. 556: Mr. AKIN.

H. Res. 695: Mr. ISSA, Mr. ROHRABACHER, Mrs. Boyda of Kansas, Ms. CARSON, Mr. BROWN of South Carolina, Mr. FERGUSON, Mr. SESTAK, Mr. BARTLETT of Maryland, Mr. FEENEY, Mr. WILSON of South Carolina, Ms. BORDALLO, Mr. MORAN of Kansas, Mr. PORTER, Mr. WOLF, Mr. CONAWAY, Mr. GALLEGLY, and Mr. MOORE of Kansas.

H. Res. 705: Mr. KING of Iowa, Mr. JORDAN, Mr. LAMBORN, Mr. HENSARLING, Mr. MILLER of Florida, Mr. ROHRABACHER, and Mr. DAVID DAVIS of Tennessee.

H. Res. 709: Mr. DOGGETT and Ms. GRANGER.

H. Res. 715: Mr. JOHNSON of Illinois and Mr. DAVIS of Illinois.

H. Res. 740: Mr. ENGEL, Mr. SHERMAN, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Mr. NADLER, Mr. DAVIS of Illinois, Ms. LINDA T. SÁNCHEZ of California, and Mr. HASTINGS of Florida.

H. Res. 747: Mr. MARKEY.

H. Res. 759: Mr. GEORGE MILLER of California, Mrs. LOWEY, and Mr. RANGEL.

H. Res. 760: Ms. LEE, Mr. SCOTT of Georgia, Mr. MAHONEY of Florida, Mr. ELLISON, Mrs. NAPOLITANO, Ms. NORTON, Mr. RODRIGUEZ, Ms. SUTTON, and Ms. MCCOLLUM of Minnesota.

H. Res. 769: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BURTON of Indiana, Mr. WEXLER, Mr. BARRETT of South Carolina, Mr. HOEKSTRA, Ms. ROS-LEHTINEN, Mrs. MUSGRAVE, Mr. CHABOT, Mr. BLUNT, Ms. JACKSON-LEE of Texas, Mr. FLAKE, Mr. FORTENBERRY, Mr. AKIN, Mr. BARTLETT of Maryland, Mr. WILSON of South Carolina, Mr. FORTUÑO, and Mr. FALEOMAVAEGA.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

OFFERED BY MR. JOHN D. DINGELL

Among the provisions that warranted a referral to the Committee on Energy and Commerce, H.R. 3963, the Children's Health Insurance Program Reauthorization Act of 2007, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

OFFERED BY MR. CHARLES B. RANGEL

Among the provisions that warranted a referral to the Committee on Ways and Means, H.R. 3963, the Children's Health Insurance Program Reauthorization Act of 2007, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

OFFERED BY MR. ROBERT A. BRADY

Among the provisions that warranted a referral to the Committee on House Administration, H.R. 3963, the Children's Health Insurance Program Reauthorization Act of 2007, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Among the provisions that warranted a referral to the Committee on Education and Labor, H.R. 3963, the Children's Health Insurance Program Reauthorization Act of 2007, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

OFFERED BY MR. HENRY A. WAXMAN

Among the provisions that warranted a referral to the Committee on Oversight and Government Reform, H.R. 3963, the Children's Health Insurance Program Reauthorization Act of 2007, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

180. The SPEAKER presented a petition of the California State Lands Commission, relative to a Resolution supporting S. 1499 and H.R. 2548, which would reduce pollution from marine vessels that use out Nation's ports; to the Committee on Energy and Commerce.

181. Also, a petition of the Broward County Board of County Commissioners, Florida, relative to Resolution No. 2007–529 encouraging the Congress of the United States to take necessary action to bring the Herbert Hoover Dike into compliance with levee protection safety standards; to the Committee on Transportation and Infrastructure.

182. Also, a petition of the Miami-Dade County Board of County Commissioners, Florida, relative to Resolution No. R–1007–07 commending the Governor of Florida, members of the Florida Legislature, the Florida Department of Transportation, and the Miami-Dade Expressway Authority for providing for the installation of guardrails along bodies of water and in roadway medians in Miami-Dade County, Florida; to the Committee on Transportation and Infrastructure.

183. Also, a petition of the National Center for Public Policy Research, relative to a Coalition Letter on the Clean Water Restoration Act; to the Committee on Transportation and Infrastructure.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153 WASHINGTON, WEDNESDAY, OCTOBER 24, 2007 No. 162

Senate

The Senate met at 9 a.m. and was called to order by the Honorable KEN SALAZAR, a Senator from the State of Colorado.

PRAYER

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

Let us pray:

Almighty and eternal God, thank You for this good land. We are grateful for her hills and valleys, her fertile soil, her trees, her plains, and mountains. We thank You for the brilliant colors of the changing seasons.

Lord, make us a great nation full of truth and righteousness. Lead our leaders to honor Your Name by living with integrity and humility. Teach them to express in words and deeds the spirit of justice, discharging their duties that other nations may respect us.

Give rest to the weary and new vigor to tired hands. Lift us when we fall, and set our feet again on the way everlasting.

Lord, we continue to pray for those facing the challenges of the California fires.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KEN SALAZAR led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 24, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KEN SALAZAR, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SALAZAR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, we are going to immediately return to executive session to continue the consideration of Judge Southwick to be nominated to one of our circuit courts. The debate time until 11 o'clock is equally divided and controlled. The 20 minutes prior to the 11 a.m. vote on the motion to invoke cloture on the nomination will be for the two leaders who will be recognized to speak, with the majority leader controlling the final 10 minutes. That order is already in effect. The consent agreement says if cloture is invoked the Senate would go to confirmation following that cloture vote. Following disposition of the nomination, there will be 20 minutes of debate, equally divided, prior to the vote on the motion to invoke cloture.

MEASURES PLACED ON THE CALENDAR—S. 2216, S. 2217

Mr. REID. Mr. President, there are two bills at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (S. 2216) to amend the Internal Revenue Code of 1986 to extend the Indian employment credit and the depreciation rules for property used predominantly within an Indian reservation.

A bill (S. 2217) to amend the Internal Revenue Code of 1986 to extend the taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.

Mr. REID. I object to any further proceedings with respect to these bills en bloc.

The ACTING PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF LESLIE SOUTHWICK TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to executive session to resume consideration of the following nomination which the clerk will report.

The legislative clerk read the nomination of Leslie Southwick, of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 11 a.m. shall be equally divided between the two leaders or their designee, with the time from 10:40 to 11 a.m. divided and controlled between the two leaders and with the majority leader controlling the final 10 minutes.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. How much time remains on each side?

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

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The ACTING PRESIDENT pro tempore. Fifty-seven and a half minutes on the majority side and 58 minutes on the minority side.

Mr. SPECTER. How much again on the Republican side?

The ACTING PRESIDENT pro tempore. Fifty-eight minutes.

Mr. SPECTER. Mr. President, I spoke extensively last night after Senator LEAHY, the chairman, spoke about the nomination. I will make a few comments now, and I will invite my colleagues to come to the floor on the Republican side. For those who are interested in time, we have only a limited amount, but we will apportion it as best we can, obviously equitably. It is my hope that we will move through the cloture vote to cut off debate and then proceed to confirm Judge Leslie Southwick.

As I said yesterday—and, again, I spoke at some length—Judge Southwick comes to this nomination with an outstanding academic, professional, and judicial record. On the Court of Appeals in the State of Mississippi and the intermediate appellate court, Judge Southwick has distinguished himself by participating in some 6,000 cases and writing some 950 opinions. His critics have singled out only two cases against that extraordinary record. I commented yesterday at length about the fact that in neither of the cases in which he has been criticized did he write the opinion, but only concurred, and there were good reasons for the positions he took.

An extraordinary thing about Judge Southwick is that he got a waiver to join the Army Reserve at the age of 42 and then at the age of 53 volunteered to go to Iraq into harm's way to serve on the Judge Advocate General's staff, receiving the commendation of the major general which I put into the RECORD yesterday.

His record shows that he has been very concerned about plaintiffs in personal injury cases, about defendants in criminal cases, and has looked out for the so-called little guy. As I enumerated yesterday, a number of very prominent members of the African-American community from Mississippi have come forward in his support—one young lady who was his law clerk and others who knew him. It is my view that on the merits, there is no question that Judge Southwick should be confirmed.

There has been some concern about the seat he is filling, whether there should be greater diversity on the seat. That really is a matter in the first instance for the President and then in the second instance for the Senate to consider the merits of the individual. It is the American way to consider Judge Southwick on his merits as to what he has done and as to what he stands for.

We have seen this body very badly divided in the past couple of decades along partisan lines. In the final 2 years of the administration of President Reagan when Democrats had control of the Senate and the Judiciary Committee, President Reagan's nominees were stonewalled to a substantial extent. The same thing happened during the last 2 years of the administration of President George H.W. Bush. Then, Republicans acted in kind during the Clinton administration and refused in many cases to have hearings or to call President Clinton's nominees up for confirmation. I think that was the incorrect approach and said so, in fact, on a number of President Clinton's nominations.

This body had a very tough time 2 years ago when we were considering the so-called nuclear constitutional option which would have taken away the filibuster opportunity to require 60 votes, and we succeeded in a compromise with the so-called Gang of 14. The Judiciary Committee has functioned more smoothly during the course of the past 3 years with Senator LEAHY now the chairman and during the course of the 109th Congress in 2005 to 2006 when I chaired the committee.

So it is my hope that comity will be maintained, that Judge Southwick will be considered as an individual as to whether he is qualified, without any collateral considerations as to the history of nominees to the Fifth Circuit. I think if that is done, Judge Southwick will be confirmed. It would be most unfortunate, in my judgment, if we were to go back to the days of excessive partisanship.

It is an open question as to who the President will be following the 2008 elections, and it would be my hope that however the Presidential election works out and whoever may control the Senate, that we will consider the nominees on their individual merits. To repeat, I think that will lead to the confirmation of Judge Southwick.

I yield the floor.

The PRESIDING OFFICER (Mr. SCHUMER). The Senator from New Jersey is recognized for 10 minutes.

Mr. MENENDEZ. Mr. President, I rise today in opposition to the nomination of Judge Southwick. With a long and consistent history of insensitivity toward discrimination and of siding with the powerful against the powerless, Mr. Southwick is the wrong person to take a seat on the Fifth Circuit Court of Appeals, and he is the wrong person to sit on the Federal bench in the State of Mississippi.

Before I explain why I oppose this nominee, let me say that my concerns are based entirely on Judge Southwick's judicial record. They have absolutely nothing to do with Judge Southwick as a person—whether he is a nice man, a good employer, or a devoted family man. That is not what this confirmation process is all about. This confirmation process is about the kind of judge Leslie Southwick was on the Mississippi State Court of Appeals and what kind of judge he will be if he is confirmed to the Fifth Circuit.

On the basis of Judge Southwick's record on the State court, I have a fairly clear picture of the kind of judge he will be if given a lifetime appointment. He will be the type of judge who consistently rules in favor of big business and corporate interests at the expense of workers' rights and consumer rights. I know this because in 160 out of 180 written decisions, he found a way to achieve that very outcome.

What I do know is that he interprets the law in a way that is not blind to color, blind to race, or blind to sexual orientation, but, in fact, focuses on these factors and sides against them. In fact, his record reveals a long history of discriminating against individuals based on race and sexual orientation, a long history of siding with the powerful over and to the detriment of the powerless.

Finally, what I do know is that when given the opportunity, he stands by those opinions. When asked by my colleagues on the Judiciary Committee, under oath, Judge Southwick was unable to think of a single instance—not even one example—of standing up for the powerless, the poor, minorities, or the dispossessed, not when he was asked during the hearing and not when he was asked for a second time in written followup. This is not the kind of judge we need on the Federal bench.

Remember the circuit this judge was nominated to—the Fifth Circuit. It is the circuit that covers Mississippi, Texas, and Louisiana, the circuit that has the largest percentage of minority residents of any Federal circuit in the United States—44 percent. Let's not forget that he is nominated to take one of the seats within that circuit reserved for a judge from Mississippi—the State with the highest percentage of African Americans in the country.

President Bush made a commitment to the residents of the Fifth Circuit, the people of Mississippi, and the people of this country that he would appoint more African Americans to this circuit. Not only has he gone back on this commitment, he has nominated someone whom the Congressional Black Caucus vehemently opposes on the grounds that he would not provide equal justice in a circuit where racial discrimination has always been the most pronounced. He has nominated someone who the NAACP, the NAACP Legal Defense Fund, the National Urban League, and the Rainbow/PUSH Coalition have all said would fail to protect the civil rights of the millions of minority residents living within the Fifth Circuit. Judge Southwick is an unacceptable nominee to any position on the Federal bench, but he is particularly ill-suited for the Fifth Circuit.

Mr. President, let me give you one example of how Judge Southwick's insensitivity toward racial discrimination affects how he decides cases. In the case of Richmond v. Mississippi Department of Human Services, Judge Southwick had to decide whether it was racial discrimination for a White employer to refer to an African American as ''a good ole'' N word. Reversing

a trial court's finding of discrimination, Judge Southwick joined an opinion stating that the N word was only ''somewhat derogatory'' and compared it to calling someone a ''teacher's pet.'' A teacher's pet?

Judge Southwick was the deciding vote in the 5–4 decision. He had strong opposition from four dissenting judges who wrote:

> The [''N'' word] is, and has always been, offensive. Search high and low, you will not find any non-offensive definition for this term. There are some words, which by their nature and definition are so inherently offensive, that their use establishes the right to offend.

It is incomprehensible to me that anyone could disagree with that statement. It is even more incomprehensible that the President of the United States could nominate an individual who does not believe the law sees such a term as offensive to the Federal appellate bench.

The ''N'' word is one of the most hateful, most denigrating words in the English language. It has no place in our society and certainly should never be tacitly permitted in the workplace.

The fact that Judge Southwick joined the majority opinion—which I should add was reversed by the State supreme court—is not an anomaly. Judge Southwick also has a troubling record in cases reviewing racial bias in the selection of jurors. Of the 59 instances that an African American defendant challenged their conviction on the grounds that the prosecution systematically struck African-American jurors, Mr. Southwick refused the challenge 54 times. That is an over 91 percent refusal rating.

When the color of the juror's skin was different, when African-American defendants challenged their convictions on the grounds that their defense attorneys were prevented from striking Caucasian jurors, Mr. Southwick refused their challenge and allowed the Caucasian juror to remain in the jury 100 percent of the time. So if a defendant claimed an African American was unjustly kept off the jury, Judge Southwick denied his claim. If a defendant claimed a Caucasian was unjustly kept on the jury, Judge Southwick denied his claim. Thus, it seems like Judge Southwick favors keeping Caucasians on juries and keeping African Americans off—even in a State like Mississippi.

One of Judge Southwick's own colleagues criticized this apparent policy because it established a low burden for the state to keep Caucasian jurors on a jury and a high burden for defendants to keep African Americans on a jury. Any double standard of justice, especially one that gives the benefit of the doubt to the Government at the detriment of individual rights, is antithetical to our justice system and its presumption of innocence. It is absolutely unacceptable on a Federal appellate court.

Another area of concern I have involves Judge Southwick's rulings in cases involving discrimination on the basis of sexual orientation. In the case S.B. v. L.W., Judge Southwick joined an opinion that took an 8-year-old child away from her birth mother largely because of the mother's sexual orientation. The fact that Judge Southwick joined this overtly discriminatory opinion is extremely troubling. However, the concurrence he himself authored is even more so.

His concurring opinion stated that homosexuality was a ''choice'' that comes with consequences. Despite the fact that the American Psychological Association has found that sexual orientation is not a choice, Judge Southwick decided to give his personal opinion, his personal belief, that is was a choice, the weight of the law. Judges must always remember the precedential value of their words and their opinions. That a judge would base a legal judgment on personal opinion is disconcerting. That a judge would base a legal judgment on such misguided personal views regarding sexual orientation is absolutely intolerable.

Before I conclude, I would like to discuss one other problem I have with Judge Southwick's nomination. That is the distinct trend in Judge Southwick's decisions of deciding in favor of big business and against the little guy. In fact, Judge Southwick ruled against injured workers and consumers 89 percent of the time when there was a divided court; 89 percent of the time Judge Southwick put the interests of corporations ahead of average Americans; 89 percent of the time injured workers and injured consumers found they were entitled to no relief in Judge Southwick's eyes.

I understand that the individual is not always right. Big business is not always wrong. But no judge should have such a strongly slanted track record in one direction or another. 89 percent is a very strongly slanted track record.

That is one reason why the UAW has also come out in strong opposition to Judge Southwick's nomination. Another reason the UAW is so strongly opposed is Judge Southwick's opinion that the ''employment at will'' doctrine, which allows employers to fire workers for any reason, ''provides the best balance of the competing interests in the normal employment situation.'' In other words, he does not believe in protecting job security. It is no wonder that the UAW has serious concerns about his ability to enforce the National Labor Relations Act, title VII of the Civil Rights Act, and other laws that protect employees in the workplace and limit ''employment at will.'' I share those concerns.

Let me give you an example. In Cannon v. Mid-South X-Ray Co., Judge Southwick refused to allow a woman to receive compensation for the debilitating injuries she suffered as a result of being exposed to toxic chemicals at work. The majority believed the woman should be able to bring her case to trial. Judge Southwick dissented from the 8–2 decision. He rested his decision on a procedural point—that the statue of limitations had tolled—even though the woman did not experience symptoms of her poisoning until years after initially being exposed. He rested his decision on the fact that she should have brought her case before she experienced any symptoms of poisoning. There was a shadow of a doubt as to when the clock should have began to run for her case—and he found in favor of big business.

In another case, Goode v. Synergy Corporation, Judge Southwick's dissent would have kept a family—whose granddaughter was killed in a propane heater explosion—from receiving a new trial even after it became clear that the company responsible for the heater had provided false information in the original trial. Luckily for the family, the majority opinion felt differently.

Mr. President, our Federal appellate courts are the second most powerful courts in our country, deferring only to the Supreme Court on a relatively small number of cases each year. For the majority of Americans, justice stops there. Now more than ever we need an independent judiciary that respects the rights of all Americans, is dedicated to colorblind justice, and protects workers and consumers from corporate America. We cannot afford to get these nominations ''wrong.'' These are lifetime appointments that cannot be taken away once we grant them.

In many ways, Judge Southwick is exactly what a judge should not be. He brings his personal bias into his decision-making process. He consistently sides with the government over defendants, particularly African-American defendants. He routinely finds in favor of big business at the expense of individual workers and consumers. He does not seem to approach his cases with an open mind.

We cannot place a judge like this on the Federal appellate bench. Therefore, I urge my colleagues to vote against the motion to invoke cloture, and should that succeed, to unanimously vote against the nominee and giving a lifetime appointment to someone who consistently decides against African Americans. In a circuit in which they are such a huge part of the population, it is simply unacceptable.

I ask unanimous consent that letters of opposition and concern from groups concerned about the environment, the Bazelon Center for Mental Health Law, the United Auto Workers, and the African-American Bar Association of Dallas, Texas be printed in the RECORD.

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

COMMUNITY RIGHTS COUNSEL; EARTHJUSTICE; FRIENDS OF THE EARTH; SIERRA CLUB, ENDANGERED HABITATS LEAGUE, LOUISIANA BAYOUKEEPER, INC., LOUISIANA ENVIRONMENTAL ACTION NETWORK, SAN FRANCISCO BAYKEEPER, TEXAS CAMPAIGN FOR THE ENVIRONMENT, VALLEY WATCH, INC.,

JUNE 13, 2007.

Re nomination of Leslie Southwick to a Lifetime Position on the U.S. Court of Appeals for the Fifth Circuit.

Hon. PATRICK J. LEAHY,
Chairman, Senate Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Senate Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SPECTER: We are writing to express serious concerns with the pending nomination of Mississippi attorney and former Mississippi Court of Appeals Judge Leslie Southwick to a lifetime seat on the United States Court of Appeals for the Fifth Circuit, which decides the fate of federal environmental and other safeguards in Texas, Louisiana, and Mississippi.

Some of these concerns are based upon points made by Judge Southwick in two Mississippi Law Review articles that were published in 2003, while he was on the Mississippi Court of Appeals:

Leslie Southwick, Separation of Powers at the State Level: Interpretations and Challenges in Mississippi Separation of Powers at the State Level, 72 Miss. L.J. 927 (2003). [Hereinafter Separation of Powers]

Leslie Southwick, Recent Trends in Mississippi Judicial Rule Making: Court Power, Judicial Recusals, and Expert Testimony, 23 Miss. C. L. Rev. 1 (2003). [Hereinafter Recent Trends]

JUDGE SOUTHWICK SUPPORTS THE MAJORITY SIDE IN THE SUPREME COURT'S FEDERALISM REVOLUTION AND, POTENTIALLY, THE ''CONSTITUTION IN EXILE'' MOVEMENT

Between 1990 and 2001, a 5–4 majority of the Supreme Court struck down federal legislation at a rate rivaled only by the discredited ''Lochner-era'' Court, which blocked the labor reforms of the Progressive Era and the Congressional response to the Depression in the early stages of the New Deal The Court's rulings, often grouped together under the inaccurate label of ''federalism,'' undermined important laws protecting women, senior citizens, minorities, the disabled, and the environment. These rulings have engendered withering criticism from both sides of the political spectrum. For example, Judge John Noonan, a conservative appointed by President Reagan to the Ninth Circuit, declared that the Rehnquist Court had acted ''without justification of any kind'' in doing ''intolerable injury to the enforcement of federal standards.'' ''The present damage,'' Judge Noonan warns, ''points to the present danger to the exercise of democratic government.'' As Senator Specter noted in a letter to then Judge John Roberts, these cases represent ''the judicial activism of the Rehnquist Court.''

Judge Southwick, writing in 2003, had a much more positive view of these cases. Indeed, he analogized the Court's ''return to first principles'' to a Christian following the Scriptures: ''The Court is insisting on obedience to constitutional structural commandments. It is as if the text that is being followed begins along these lines: In the Beginning, the New World was without Form, and void, and the Patriot Fathers said 'Let There Be States.' Behold, there were States, and it was Good.'' Separation of Powers, at 929. He noted that the ''return by the Supreme Court to the original scripture of federalism, or as some opposed to the outcomes might claim, to the original sin of the constitutional fathers, began in earnest with United States v. Lopez in 1995.'' Id. at 929. The bulk of his article is devoted to explaining how the model set by the Supreme Court can be employed at the state level by the new conservative majority on the Mississippi Supreme Court.

Even more troubling, at least potentially, is his assertion that ''[f]rom 1937 to 1995, federalism was part of a 'Constitution in exile.'" Id. at 930. Judge Southwick's invocation of this term, coined by D.C. Circuit Judge Douglas Ginsburg, and still relatively obscure outside Federalist Society circles in 2003, suggests that he is supportive of efforts by certain scholars in academia and some judges on the federal bench to restore understandings of the Constitution held by a conservative majority of the Supreme Court in the period before the Great Depression and the New Deal As University of Chicago law professor Cass Sunstein opined in a New York Times Magazine cover story written by Jeffrey Rosen, success of this ''Constitution in Exile'' movement would mean:

many decisions of the Federal Communications Commission, the Environmental Protection Agency, the Occupational Safety and Health Administration and possibly the National Labor Relations Board would be unconstitutional. It would mean that the Social Security Act would not only be under political but also constitutional stress. Many of the Constitution in Exile people think there can't be independent regulatory commissions, so the Security and Exchange Commission and maybe even the Federal Reserve would be in trouble. Some applications of the Endangered Species Act and Clean Water Act would be struck down as beyond Congress's commerce power.

JUDGE SOUTHWICK IS A PRO-CORPORATE PARTISAN IN THE MISSISSIPPI TORT WARS

Over the past decade, Mississippi judges have been engulfed in what Judge Southwick calls ''never-ending and ever-escalating tort wars being fought out at every level of the Mississippi court system.'' Recent Trends at * 11. Judge Southwick is clearly a partisan in this war. He criticizes former Mississippi Supreme Court Justice Chuck McRea for ''an interest in crafting precedents that were favorable to the interests of plaintiffs in personal injury actions.'' He calls former Mississippi Governor Ronnie Musgrove ''the poster boy for trial lawyer campaign contributions.'' Separation of Powers at 1027. Judge Southwick is also deeply critical of the litigation against tobacco companies led by former Mississippi Attorney General Michael Moore, favorably quoting another commentator for the proposition that ''[i]f the fallout from the state tobacco litigation is not addressed quickly, it will further distort and destabilize a number of areas of law, including the separation of powers within state governments.'' Separation of Powers at 1032. Finally, Judge Southwick notes that he has been criticized for taking the defendants' side in such cases: ''[o]ther appellate judges, including the author of this article, may from time to time also appear to various observers to have brought their background experiences into play in their rulings on the bench.'' Recent Trends at * 11. Some of these statements—particularly Judge Southwick's pointed depiction'' of the sitting Mississippi Governor—seem a bit intemperate for a sitting judge.

Moreover, examinations of Judge Southwick rulings by Alliance for Justice and a business advocacy group support a conclusion that Judge Southwick's rulings as a judge favored corporate defendants. In 2004, a business advocacy group gave Judge Southwick the highest rating of any judge on the Mississippi Court of Appeals, based on his votes in cases involving liability issues. B. Musgrave and T. Wilemon, ''Business Group Rates State Justices,'' The Sun Herald (Mar. 24, 2004). According to an analysis by the Alliance for Justice, ''Judge Southwick voted, in whole or in part, against the injured party and in favor of special interests, such as corporations or insurance companies, in 160 out of 180 published decisions involving state employment law and torts cases in which at least one judge dissented.'' Alliance for Justice, Preliminary Report on the Nomination of Leslie H. Southwick to the Fifth Circuit, at 4–5; http://independentjudiciary.com/resources/docs/PreliminaryReportSouthwick.pdf.

One of the cases included in the Alliance report gives us particular concern because it limits access to courts, which is essential to ensure that Americans have a meaningful right to prevent and redress environmental harms including injury to their health and safety, clean water, clean air, and endangered species. State common law tort, nuisance and other civil remedies often provide invaluable supplementation of limited federal safety, health and environmental statutes. Court rulings that unfairly cut off state common law claims can preclude the most effective or only avenue of relief. Unfortunately, that is what Judge Southwick would have done in his dissent in a case in which the court ruled 8–2 that the statute of limitations did not begin to run until the plaintiff had reason to believe the chemicals that she was exposed to caused her illness. Gannon v. Mid-South X-Ray Co. 738 So. 2d 274 (Miss. Ct. App. 1999).

His record as a judge, combined with Judge Southwick's own words, raise questions about his ability to be a fair and neutral arbiter of environment and other cases that involve the interests of corporate defendants. Concerns about the ability of a judicial nominee to be unbiased go to the heart of the Senate's constitutional advice and consent role. We urge you to carefully consider these concerns, raised by Judge Southwick record, before voting on his proposed nomination to a lifetime position on the Fifth Circuit Court of Appeals.

Sincerely,
Doug Kendall, Executive Director, Community Rights Counsel.
Glenn Sugameli, Senior Judicial Counsel, Earthjustice.
Dr. Brent Blackwelder, President, Friends of the Earth.
Pat Gallagher, Director, Environmental Law Program, Sierra Club.
Dan Silver, Executive Director, Endangered Habitats League.
Tracy Kuhns, Executive Director, Louisiana Bayoukeeper, Inc.
Marylee M. Orr, Executive Director, Louisiana Environmental Action Network.
Sejal Choksi, Baykeeper & Program Director, San Francisco Baykeeper.
Robin Schneider, Executive Director, Texas Campaign for the Environment.
John Blair, President, Valley Watch, Inc.

JUNE 14, 2007.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Russell Senate Office Building, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Senate Judiciary Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY AND SENATOR SPECTER: I write to express the opposition of the Bazelon Center for Mental Health Law to the nomination of Leslie Southwick to the Fifth Circuit Court of Appeals. The Bazelon Center

is a national nonprofit organization that advocates for the rights of individuals with mental disabilities through litigation, policy advocacy, education and training. The Center previously expressed concern about the nomination; we now feel it is appropriate to express our opposition.

Judge Southwick apparently holds a narrow view of federal power that suggests that he would invalidate portions of critical civil rights legislation if appointed. He has characterized the Supreme Court as returning to the ''scripture'' of the Constitution by striking down portions of the Violence Against Women Act and Gun Free School Zones Act, and hampering Congress's power to abrogate sovereign immunity to protect Native Americans. Leslie Southwick, Separation of Powers at the State Level, 72 Miss. L. J. 927, 930–31 (2003). Southwick also indicated his apparent support for the ''Constitution in exile'' movement, a radical ideology that would undo seventy years of Supreme Court rulings, dramatically undermining the federal government's power.

These issues are of paramount concern to the disability community because the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and the Individuals with Disabilities Education Act (IDEA) have been the targets of repeated attacks on federalism grounds, and the constitutionality of these laws has been hotly contested in the federal courts.

Southwick's nomination to the Fifth Circuit is especially troubling because that court is already closely divided on the constitutionality of disability rights legislation. See Pace v. Bogalusa City School Bd., 325 F.3d 609 (5th Cir. 2003) (Congress did not validly abrogate state sovereign immunity in the IDEA), rev'd, 403 F.3d 272 (5th Cir. 2005) (5 judges dissenting); McCarthy v. Hawkins, 481 F.3d 407 (5th Cir. 2004) (upholding ADA's community integration mandate against commerce clause challenge in divided vote); Neinast v. Texas, 217 F.3d 275; (5th Cir. 2000) (Congress lacked authority under Fourteenth Amendment Section 5 to enact the ADA's bar on imposing handicapped parking placard surcharges on individuals with disabilities). Southwick's addition to the Fifth Circuit would increase the likelihood that critical disability rights protections would be eliminated in that Circuit.

This lifetime position should be held by someone who respects Congress's authority to enact needed civil rights protections, including protections for individuals with disabilities.

Sincerely,

ROBERT BERNSTEIN,
Executive Director, Bazelon Center for Mental Health Law.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,

OCTOBER 22, 2007.

DEAR SENATOR: This week the Senate may take up the nomination of Mississippi Judge Leslie H. Southwick to the 5th Circuit Court of Appeals. The UAW urges you to oppose his nomination and to vote against any attempt to invoke cloture on this nomination.

Judge Southwick's record as a judge on the Mississippi Court of Appeals is deeply troubling. He has consistently ruled against workers seeking compensation for injuries suffered on the job. He has also opined that the ''employment at will'' doctrine, which allows employers to fire workers for any reasons, ''provides the best balance of the competing interests in the normal employment situation.'' This raises serious questions about his ability to enforce the National Labor Relations Act, Title VII of the Civil Rights Act, and other laws that protect employees in the workplace and limit ''employment at will.''

Judge Southwick also joined the court's 5–4 decision in Richmond v. Mississippi Department of Human Services, upholding the reinstatement of a state social worker who was fired for using a despicable racial epithet in a condescending reference to a co-worker. This decision reveals a disturbing lack of understanding for the negative impact of this language. In addition, a review of Judge Southwick's decisions reveals a disturbing pattern in which he routinely rejects defense claims regarding racially motivated prosecutors who strike African-American jurors, but upholds claims of prosecutors that defense attorneys are striking white jurors on the basis of their race.

For all of these reasons, the UAW believes that Judge Southwick's confirmation would endanger core worker and civil rights protections. Accordingly, we urge you to vote against his nomination and against any attempt to invoke cloture to cut off debate on his nomination.

Thank you for considering our views on this issue.

Sincerely,

ALAN REUTHER,
Legislative Director.

THE AFRICAN-AMERICAN BAR ASSOCIATION OF DALLAS, TEXAS,

June 6, 2007.

Re nomination of Leslie Southwick to the United States Court of Appeals for the Fifth Circuit.

Hon. PATRICK LEAHY,
Chairman, Senate Committee on the Judiciary, Russell Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: The J.L. Turner Legal Association (''JLTLA''), the premier organization for African-American attorneys in Dallas, Texas, writes to register its opposition to the nomination of Leslie Southwick to the United States Court of Appeals to the Fifth Circuit. In so doing, we join with Senator Barack Obama, the Magnolia Bar Association, the Alliance for Justice and the National Employment Lawyers Association, among others, in voicing concerns about Judge Southwick's fitness for elevation to a lifetime appointment to the federal appellate bench.

More significantly, the JLTLA is deeply disturbed by the Bush Administration's consistent and highly objectionable pattern of selecting ultra-conservative, non-diverse candidates to serve on the most racially diverse federal circuit in the country. The Fifth Circuit, comprised of Mississippi, Louisiana and Texas, is home to more African-Americans than any other federal circuit, with the possible exception of the Fourth Circuit. Only one African-American judge, Carl Stewart, currently serves on the Fifth Circuit. Bush has, moreover, nominated no African-Americans to the Fifth Circuit. After Charles Pickering and Mike Wallace, Judge Southwick's nomination could only very generously be described as yet another ''slap in the face'' to the diverse populations of the Fifth Circuit.

Further, this appointment reflects the Bush Administration's clear disregard for the will of the American people given the significantly dynamic change in Congress. The dramatic outcome of the midterm Congressional election signals that Americans are seeking a new landscape rather than leaving an even more conservative footprint on what is now one of the most conservative Circuits in the nation.

Historically, the Fifth Circuit served as the vanguard for the advancement of civil and human rights, particularly with regard to the implementation of the U.S. Supreme Court's dictates following its historic ruling in Brown v. Board of Education et al. The last 20 years, however, have marked a notable retrenchment in the Fifth Circuit's commitment to civil rights. Judge Southwick's elevation to the Fifth Circuit would only strengthen the conservative leanings of this Court, and further alienate the diverse citizens of this Circuit.

We trust that you will call upon all of your colleagues on the Judiciary Committee to reject this nomination, and call on the President to select a consensus nominee that would bring greater balance to the Fifth Circuit.

Very truly yours,

VICKI D. BLANTON, Esq.,
President, JLTLA.

The PRESIDING OFFICER (Mr. CARDIN). The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I rise to make a few brief remarks on this nomination to the United States Court of Appeals for the Fifth Circuit, which serves the residents of Mississippi, Louisiana, and my State of Texas.

Judge Leslie Southwick has served for almost 12 years on the Mississippi Court of Appeals where he has participated in thousands of cases in almost every area of State civil and criminal law. He is, by all accounts—notwithstanding some of the attacks by interest groups that we have heard recounted here today—a respected member of that court and an honorable and decent man. Notably, he took a leave from the bench to volunteer to serve his Nation in Iraq. I ask: What kind of man would give up a cushy job on the Mississippi Court of Appeals to put his life on the line in Iraq?

The American Bar Association has unanimously found Judge Southwick ''well qualified'' to serve on the Fifth Circuit, which is the highest rating the American Bar Association gives. It is important to point out that the American Bar Association investigates the background of these nominees, talks to litigants who appeared before them, talks to other judges and leaders of the legal community, and they have concluded that instead of the comments we have heard today attacking the integrity of this public servant, that he deserves the highest rating of the American Bar Association.

For whatever reason, this honorable public servant has been dragged through the mud in this confirmation proceeding and, in my opinion, has been slandered by some of his critics. Judge Southwick has been called an ''arch-reactionary,'' a ''neoconfederate,'' ''hostile to civil rights,'' everything but the word ''racist,'' although that has been implied time and time again.

Judge Southwick's nomination was opposed by 9 of the 10 Democrats on the Senate Judiciary Committee. But, to her credit, Mrs. FEINSTEIN, the Senator from California, declined to be strong-armed by the interest groups who are whipping up manufactured hysteria when it comes to opposing

this nominee. Announcing that she found ''zero evidence to support the charges against Judge Southwick,'' Senator FEINSTEIN joined the nine Republicans on the committee to advance the nomination to the Senate floor.

What was never answered in the Judiciary Committee's debate over this nomination is why the same panel had, just a year earlier, unanimously approved him for a seat on the Federal District Court bench. I posed this question to my colleagues during the Judiciary Committee debate:

> If there is a concern out there that Judge Southwick is not qualified because of some perceived racial problem, why in the world would that opposition deem him acceptable to be a Federal District Court judge?
>
> Think about that a second. The discretion afforded a District Court judge is so much greater than that on the court of appeals—from the start of a trial, through voir dire and juror strikes, through evidentiary rulings, and jury instructions. I trust that my colleagues would never vote for someone with a perceived race problem for life tenure in a role with such enormous discretion. We all know that there was no objection at the time he came before the committee for a Federal District bench because, the fact is, the allegations against him had been manufactured since that time.

There is no legitimate concern about Judge Southwick's character or record. This is just the latest incarnation of the dangerous game being played with the reputations and lives of honorable public servants.

The Republican leader put it this way:

> When do we stop for the sake of the institution, for the sake of the country, and for the sake of the party that may not currently occupy the White House? When do we stop?

The Washington Post's editorial page, along with the respected legal affairs columnist Stuart Taylor, both lamented the treatment afforded Judge Southwick who has yet to be confirmed by the Senate but hopefully will be today. Stuart Taylor's column is appropriately titled ''Shortsighted on Judges.'' He writes:

> The long-term cost to the country is that bit by bit, almost imperceptibly, more and more of the people who would make the best judges—liberal and conservative alike—are less and less willing to put themselves through the ever-longer, ever-more-harrowing gauntlet that the confirmation process has become.

The attacks on Judge Southwick, unfortunately, have come to typify the kinds of vicious, gratuitous, personal attacks that are occurring with greater frequency against judicial nominees.

I wonder if there is a Member of this body who doesn't think we need to improve the tone and rhetoric of the judicial confirmation process. When good men and women decline the opportunity to serve on the Federal bench out of disdain for this unnecessarily hostile process, the administration of justice in this Nation can only be the worst for it.

I urge my colleagues to send a strong message today with this vote that these unwarranted, baseless attacks on Leslie Southwick are beneath the dignity of the Senate. At some point in time we have to stop it, and I can think of no better time than now with this outstanding public servant.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, after the Senator from Illinois speaks, I would like to yield 7 minutes to the Senator from Arizona, Mr. KYL.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, a few weeks ago, our Nation witnessed one of the largest civil rights rallies in decades. It was a rally to condemn hate crimes and racial disparities in our criminal justice system. It occurred in a town in Louisiana that most of us never heard of, Jena, LA. That small town captured the attention of America. Why? Well, because of an incident that occurred at a high school where there was a tree that White students traditionally gathered under.

School officials came to the conclusion it was time that all students could sit under the tree. In protest for that decision, White students hung nooses from the tree. Nooses, the ancient symbol of hatred and bigotry.

Well, that incident led to other incidents, fights between Black and White students at the school. Three White students who put the nooses in the tree were given a 3-day suspension from the school, a 3-day suspension.

In contrast, the Jena district attorney, who was White, brought criminal charges for attempted murder against six African-American teenagers, the so-called Jena 6.

If convicted on all the charges, the African-American students could have served a combined total of more than 100 years in prison. One hundred years in prison for one group of students, a 3-day suspension for others. It is no wonder this captured the attention of the Nation.

Squabbling, fighting among students, led to serious criminal charges for some and a very slight reprimand for others. This is not the first time America has faced this kind of disparity in justice. Sadly, it is not likely to be the last. Some of us in my age group can recall the struggles of the 1960s when civil rights became a national cause in America, when all of us, Black, White, and brown, North and South, were forced to step back and take a look at the America we live in and make a decision as to whether it would be a different country.

We look back now as we celebrate Dr. Martin Luther King's birthday and observances with fond remembrance of that era. But I can remember that era, too, as being one of violence and division in America. I can recall when Dr. King decided to come to the Chicago area and lead a march. It was a painful, violent experience in a State I love.

I look back on it because I want to make it clear: discrimination is not a Southern phenomena, it is an American phenomena. But in the course of the civil rights struggle in the 1960s, there were some real heroes, and one of them was a man I dearly love and served with in the House, JOHN LEWIS.

JOHN LEWIS, a young African-American student, decided to engage in sit-ins, and when that did not succeed, he moved on to the next level, the freedom bus rides. He risked his life taking buses back and forth across the South to establish the fact that all people, regardless of their color, should be given a chance.

And then, of course, the historic march in Selma. JOHN LEWIS was there that day. I know because I returned to that town a few years ago with him and he retraced his footsteps. He showed us how he walked over that bridge as a young man. As he was coming down on the other side of the bridge, he saw gathered in front of him a large group of Alabama State troopers. As they approached the troopers, the troopers turned on the marchers and started beating them with clubs, including JOHN.

JOHN was beaten within an inch of his life, knocked unconscious. Thank God he survived. I thought about that because I wanted to be there at that Selma march. I was a student here in Washington at the time and for some reason could not make it and have regretted it ever since.

But as we were driving back from Selma, I recall that JOHN LEWIS said something to me which stuck. He said: You know, there was another hero on that Selma march who does not get much attention; his name was Frank Johnson. Frank Johnson was a Federal district court judge and later a Federal circuit court judge in the Fifth Circuit, which at the time included the State of Alabama. JOHN LEWIS said: If it were not for the courage of Frank Johnson, who gave us the permission to march, there never would have been a march in Selma. Who knows what would have happened to the civil rights movement.

Well, Frank Johnson is a man who has been celebrated in his career as a jurist for his courage. He and his family faced death threats. They were under constant guard for years because of the courageous decisions he made that moved us forward in the civil rights movement.

I had a chance to meet with two prospective nominees to the Supreme Court before their confirmations, Chief Justice Roberts and Justice Alito. I gave both of them this book, ''Taming the Storm,'' written by Jack Bass—which is a biography of Frank Johnson—hoping that in their busy lives they might take the time to read these words about his courage and his life and be inspired in their own responsibilities.

There are so many things that have been said and written about Frank Johnson's courage as a judge, a circuit judge in the same circuit we are considering today. One of them was written by a fellow who served in the Senate. I didn't have the chance to serve

with him, but I heard so many wonderful things about him, Howell Heflin. Senator Howell Heflin of Alabama introduced a bill to name the U.S. courthouse in Montgomery, AL, for Frank Johnson, Jr.

This is what he said: Judge Johnson's courtroom has been a living symbol of decency and fairness to all who come before his bench. It is from this courthouse that the term ''rule of law'' came to have true meaning; it is from this courthouse that the term ''equal protection of the law'' became a reality; and it is from this courthouse that the phrase ''equal justice under law'' was dispensed despite threats to his personal life.

Frank Johnson, circuit judge, Fifth Circuit, had the courage to make history and the power to change America. It is a high standard, and it is not for all of us, whether you are a Member of the Senate or seek to be on the Federal judiciary.

It is particularly an important standard to consider with the nomination of Leslie Southwick. There are so many good things to say about Leslie Southwick, if you read his biography, things he has done in his military service, his service in many respects.

But he is asking to serve on Frank Johnson's circuit court, the Fifth Circuit. I guess many of us believe it is a particularly important circuit for the same reason it was in the time of Frank Johnson.

That Fifth Circuit is still a crucible for civil rights. That Fifth Circuit contains Jena, LA. That is a circuit which many times has been called upon to make important historic decisions about fairness and equality in America.

So, yes, I know we ask more of the nominees for that circuit. We know it has a higher minority population than any other circuit in America. We know the State of Mississippi, the home of Leslie Southwick, has the highest percentage of African Americans.

Yesterday, the Congressional Black Caucus came to meet with the Senate leadership. It is rare that they do that. Congresswomen CAROLYN KILPATRICK and ELEANOR HOLMES NORTON and others came to speak to us.

The depth of emotion in their presentation is something that touched us all. Members of the Senate who have been through a lot of debates and a lot of nominations, many of them were misty-eyed in responding to the feelings, the deep-felt feelings of these African-American Congresswomen about this nomination.

BENNIE THOMPSON of Mississippi, the only Black Congressman from that delegation, talked about what this meant to him, how important it was to have someone who could start to heal the wounds of racism and division in the State he lived in. It touched every single one of us.

I asked Leslie Southwick a question at his nomination hearing under oath; it was as open-ended as I could make it. I asked him:

> Can you think of a time in your life or career where you did bend in that direction, to take an unpopular point of view on behalf of those who were voiceless or powerless and needed someone to stand up for their rights when it wasn't a popular position?

Judge Southwick responded:

> I hope that a careful look—and the answer is, no, I cannot think of something now. But if I can give you this answer. I cannot recall my opinions, and I don't think of them in those terms.

By every standard that was a softball question. I asked this man to reflect on his personal and professional life and talk about a Frank Johnson moment, when he stood up to do something that was unpopular but right for someone who did not have the power in his courtroom.

I even sent him a followup written question because I wanted to be fair about this. And he still could not come up with anything. It is troubling. I hope that if the Senate rejects this nomination, the Senators in the Fifth Circuit, particularly from Mississippi, will bring us a nominee for this circuit who can start to heal the wounds, who can bring us back together, who can give hope to the minorities and dispossessed in that circuit that they will get a fair shake if their cases come to court.

I hope they can reach back and find us a Frank Johnson, someone in that mold, someone who can answer that open-ended question in a very positive way.

Today, I will vote against cloture and oppose the nomination of Leslie Southwick.

I yield the floor.

Mr. SPECTER. Mr. President, how much time remains on the Republican side?

The PRESIDING OFFICER. There is 45 minutes 17 seconds.

Mr. SPECTER. Mr. President, I yield 7 minutes to the Senator from Arizona. I will yield 10 minutes jointly to the senior Senator from Arizona, Mr. MCCAIN, and Senator GRAHAM, which will come in sequence after we alternate with the Democrats.

Mr. WHITEHOUSE. Mr. President, it is my understanding that Senator SCHUMER of New York wishes to be recognized for 10 minutes at 10 o'clock, which just about coincides with what the Senator from Pennsylvania has indicated.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I rise in support of Judge Southwick. There is no question that the nominee is qualified to serve. I do not need to repeat his qualifications. Senators SPECTER and FEINSTEIN did that very well last night. There is no question that he has had an impressive life of service.

Nobody can question the service of a man who joins the Army Reserves at age 42 and then requests duty in a war zone when he is past the age of 50. I will suggest, by the way, that might have been a good answer to the question that Senator DURBIN proposed a moment ago. His life is a life of service, and I believe we should honor him for that.

There is no question the Nation would be well served by his service on the bench. There is also no question the questions about him have been contrived, and there is no question there is more at stake today than the confirmation of Judge Leslie Southwick.

My colleagues should think long and hard about voting against cloture and about what has happened to this nomination. Until the year 2003, no circuit court nominee has been denied confirmation in this body due to a filibuster. Only Abe Fortas faced a real filibuster attempt, and obviously he had ethics issues which caused him to withdraw after it was clear he lacked even majority support.

Since that time, the convention throughout the 1970s and 1980s and 1990s was to reject this path of filibustering nominees. Senators did not like some nominees, but they did not require cloture. When a few Senators tried to impose a cloture standard, the Senate united, on a bipartisan basis, to reject that 60-vote standard.

In fact, then-Majority Leader LOTT and then-Judiciary Chairman HATCH led the fight against requiring cloture in 2000 when we voted on Clinton nominees Paez and Berzon. The vast majority of Republicans rejected any filibuster of judicial nominees.

But in 2003 things began to change. Liberal activist groups pursued many Democrats to apply a different standard. From 2003 to 2005, Democrats actively filibustered several nominees.

> I recall the Senator from Nevada saying: ''This is a filibuster.''

Well, it was a brandnew world, and many realized it was not good. A group of Senators, seven from both parties, got together and worked out an arrangement which would preclude this from happening in the future because it was not good and was setting a very bad precedent in the Senate.

In 2005, most of the people on both sides of the aisle backed down from this precipice and the Democrats agreed that in light of the opposition to what they had been doing, their obstructionism, that they would no longer do that.

Unfortunately, today we are seeing a rise, a rejuvenation of those earlier efforts. It strikes me as exceedingly shortsighted and needs to stop. Senator FEINSTEIN's thoughtful speech last night set the standard.

She concluded the speech with the following words, relating to Judge Southwick:

> He is not outside the judicial mainstream. That's the primary criterion I use when evaluating an appellate nominee. And I expect future nominees of Democratic Presidents to be treated the same way.

Well, that is the real question, Mr. President: Will Senator FEINSTEIN's expectation become the reality? I wish I could say yes, but it may not occur that way if cloture is not granted to

Judge Southwick, and that is the larger question.

Until now, my Republican colleagues and I have been clear that we think judicial filibusters are inappropriate. I suggest today's vote is a watershed. If Senate Democrats decide to filibuster Judge Southwick today, a clearly qualified nominee, they should not be surprised if they see similar treatment for Democratic nominees. This cannot be a one-sided standard. So this isn't just a vote about Judge Southwick; it is about the future of the judicial nomination process. If Leslie Southwick can't get an up-or-down vote, then I suspect no Senator should expect a future Democratic or Republican President to be able to count on their nominees not to be treated in the same fashion. Any little bit of controversy could be created to create the kind of hurdles Judge Southwick is facing today.

Senator SPECTER and Senator FEINSTEIN have made clear there is nothing to these supposed controversies that have been generated around Leslie Southwick. They are largely inventions of the activist left and don't hold up in the light of scrutiny.

So what of the future? If a Republican wants to block a Democratic President's nominee, all one would need would be the allegation of a controversy. Pick out a case. Raise questions about motivation. Ignore the plain language of a court opinion. Speculate. Ignore the man's character.

The Senator from Illinois spoke movingly a little while ago about civil rights, JOHN LEWIS, Frank Johnson, Martin Luther King, all of which are very important to any debate, but very little of Leslie Southwick—no evidence that he would not apply the same standard in judging civil rights matters, just an insinuation because he didn't answer a question about whether he had ever done something unpopular but right. Well, that is not a disqualification from serving on the court.

So think about the nominees whom you might want to recommend. Could an activist group gin up a controversy about your nominee? Is there anything in his or her past that could be misconstrued, distorted, or painted in an unfair light?

Senator FEINSTEIN asked for a system in which we simply asked whether nominees are in the mainstream and, obviously, are they qualified? She asks that we apply that standard in the future. That is the standard we should be applying on both sides. But if things go badly today and Judge Southwick is treated as poorly as he has been treated so far, then I would have to say that nobody can count on what that standard could be in the future.

Vote for cloture today, my friends, because Judge Southwick is an American patriot who has devoted his life to service. Vote for cloture because he is qualified to serve on the bench. But if that isn't enough, vote for cloture to save future nominees from the same kind of problem that has been attendant to this nominee and the potential that a different standard will be applied in the future with respect to confirming our nominees. That would take us down the wrong path.

Senator FEINSTEIN is right. We should confirm this nominee.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I have a brief unanimous consent request that the Senator from Arizona has given me the courtesy of propounding before he speaks.

Mr. President, I ask unanimous consent to have printed in the RECORD letters of opposition from People For the American Way, the West Texas Employment Lawyers Association, the National Gay and Lesbian Task Force, and the National Council of Jewish Women.

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

PEOPLE FOR THE AMERICAN WAY,
Washington, DC, May 30, 2007.

Re Leslie Southwick.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY AND SENATOR SPECTER: I am writing on behalf of People For the American Way and our more than 1,000,000 members and supporters nationwide to express our strong opposition to the confirmation of Mississippi lawyer and former state court judge Leslie Southwick to the United States Court of Appeals for the Fifth Circuit. Apart from the fact that much of Judge Southwick's record has not yet been provided to the Committee for its consideration, what is known of that record is disturbing, particularly in connection with the rights of African Americans, gay Americans, and workers. Moreover, given that the states within the jurisdiction of the Fifth Circuit (Mississippi, Louisiana, and Texas) have the highest percentage of minorities in the country, we deem it of great significance that the NAACP of Mississippi and the Congressional Black Caucus are among those opposing Southwick's confirmation.

As you know, Judge Southwick has been nominated by President Bush to fill a seat on the Fifth Circuit that the President has previously attempted to fill with Charles Pickering and then with Michael Wallace, both of whose nominations were met with substantial opposition, in large measure because of their disturbing records on civil rights. As you will recall, on May 8, 2007, jointly with the Human Rights Campaign (which has since announced its opposition to Southwick's confirmation), we sent the Committee a letter expressing our very serious concerns about Judge Southwick's nomination, observing that, once again, President Bush had chosen a nominee for this seat who appeared to have a problematic record on civil rights. In particular, our letter discussed in detail the troubling decisions that Judge Southwick had joined in two cases raising matters of individual rights that strongly suggested he may lack the commitment to social justice progress to which Americans are entitled from those seeking a lifetime appointment to the federal bench. Those decisions take on added significance because the intermediate state appellate court on which Judge Southwick sat does not routinely consider the types of federal constitutional and civil rights matters that would shed a great deal of light on a judge's legal philosophy concerning these critical issues. As further discussed below, Judge Southwick's confirmation hearing on May 10 did not allay the concerns raised by these decisions or by other aspects of his record.

In one of the cases discussed in our earlier letter, *Richmond* v. *Mississippi Department of Human Service*, 1998 Miss. App. LEXIS 637 (Miss. Ct. App. 1998), reversed, 745 So. 2d 254 (Miss. 1999), Judge Southwick joined the majority in a 5–4 ruling that upheld the reinstatement with back pay of a white state employee who had been fired for calling an African American co-worker a ''good ole nigger.'' The decision that Judge Southwick joined effectively ratified a hearing officer's opinion that the worker's use of the racial slur ''was in effect calling the individual a 'teachers pet'.'' 1998 Miss. App. LEXIS 637, at *19. The hearing officer considered the word ''nigger'' to be only ''somewhat derogatory,'' felt that the employer (the Mississippi Department of Human Services no less) had ''overreacted'' in firing the worker, and was concerned that other employees might seek relief if they were called ''a honkie or a good old boy or Uncle Tom or chubby or fat or slim.'' Id. at *22–23.

Four of Judge Southwick's colleagues dissented. Two would have upheld the decision by DHS to fire the worker. Two others, also joined by one of the other dissenters, objected to the Employee Appeals Board's failure to impose any sanctions at all on the worker, noting a ''strong presumption that some penalty should have been imposed.'' Id. at *18. The three judges issued a separate dissent and would have remanded the case so that the board could impose ''an appropriate penalty or produce detailed findings as to why no penalty should be imposed.'' Id. at *18. Significantly, Judge Southwick chose not even to join this three-judge dissent that would have remanded the case so that some disciplinary action short of firing the worker could have been imposed on her for having referred to a co-worker by a gross racial slur, ''in a meeting with two of the top executives of DHS.'' Id. at *28.

As we discussed in our earlier letter, the Mississippi Supreme Court unanimously reversed the ruling that Southwick had joined. The Supreme Court majority ordered that the case be sent back to the appeals board to impose a penalty other than termination or to make detailed findings as to why no penalty should be imposed—the position taken by three of Judge Southwick's colleagues. Some of the justices on the Supreme Court would have gone even further and reinstated the decision by DHS to fire the worker. But all of the Supreme Court justices rejected the view of the Court of Appeals majority (which included Southwick) that the board had not erred in ordering the worker's reinstatement without imposition of any disciplinary action.

In the second case that we discussed in our May 8 letter, *S.B.* v. *L.W.*, 793 So. 2d 656 (Miss. Ct. App. 2001), Judge Southwick joined the majority in upholding—over a strong dissent—a chancellor's ruling taking an eight-year-old girl away from her bisexual mother and awarding custody of the child to her father (who had never married her mother), in large measure because the mother was living with another woman in ''a lesbian home.'' In addition to the disturbing substance of the majority's ruling, its language is also troubling, and refers repeatedly to what it calls the mother's ''homosexual lifestyle'' and her ''lesbian lifestyle.''

Judge Southwick not only joined the majority opinion upholding the chancellor's ruling, but alone among all the other judges in

the majority, he joined a concurrence by Judge Payne that was not only gratuitous, but gratuitously anti-gay. As we have previously observed, the concurrence appears to have been written for the sole purpose of underscoring and defending Mississippi's hostility toward gay people and what it calls ''the practice of homosexuality'' (id. at 662), in response to the position of the dissenters that the chancellor had erred. (The word gay is not used; the concurrence refers repeatedly to ''homosexuals'' and ''homosexual persons.'') Among other things, the concurrence suggests that sexual orientation is a choice, and explicitly states that while ''any adult may choose any activity in which to engage,'' that person ''is not thereby relieved of the consequences of his or her choice.'' Id. at 663. In other words, according to Judge Southwick, one consequence of being a gay man or a lesbian is possibly losing custody of one's child.

In addition, and as we noted in our May 8 letter, the concurrence claimed that ''[u]nder the principles of Federalism, each state is permitted to set forth its own public policy guidelines through legislative enactments and through judicial renderings. Our State has spoken on its position regarding rights of homosexuals in domestic situations.'' Id, at 664. Thus, according to the separate concurrence that Southwick chose to join, the states' rights doctrine gave Mississippi the right to treat gay people as second-class citizens and criminals. The views expressed in this concurrence strongly suggest that Judge Southwick is hostile to the notion that gay men and lesbians are entitled to equal treatment under the law.

Unfortunately, Judge Southwick's testimony at his May 10 hearing and his response to post-hearing written questions did not resolve and in fact underscored the very serious concerns that we and others had raised about his record and in particular his decisions in these cases. For example, in response to Senator Kennedy's post-hearing question about why, in the Richmond case, Judge Southwick had ''accept[ed] the employee's claim that [the racial slur] was not derogatory,'' Judge Southwick stated that while the word is derogatory, ''there was some evidence that [the worker] had not been motivated by hatred or by animosity to an entire race,'' and further stated that the opinion he joined had recounted evidence that the employee's use of the racial slur ''was not motivated by a desire to offend.'' Judge Southwick's answers reflect far too cramped an appreciation of the magnitude of the use of this gross racial slur anywhere, let alone to refer to a co-worker in Mississippi.

Senator Kennedy also asked Judge Southwick why, ''[e]ven if you did not think a worker should be fired for using a racial slur—why not at least let the employer impose some form of discipline?'' Southwick replied that ''[n]either party requested that any punishment other than termination be considered.'' However, as noted above, three of Judge Southwick's dissenting colleagues and the state Supreme Court found no impediment to concluding that even if termination were not warranted by the use of this offensive racial slur, the case should have been sent back so that some form of lesser punishment could be considered.

The custody case was also the subject of much questioning at Judge Southwick's hearing and in post-hearing questions. When Judge Southwick was asked at his hearing about his decision to uphold the chancellor's ruling to deprive the mother of custody of her daughter, in large measure because of her sexual orientation, Judge Southwick repeatedly insisted that a parent's ''morality'' was a relevant factor in a Mississippi custody case, the clear implication being that Southwick considers gay men and lesbians to be immoral. And he also observed that *Bowers* v. *Hardwick,* 478 U.S. 186 (1986), upholding anti-gay ''sodomy'' laws, was then good law (not yet having been overturned by the Supreme Court in *Lawrence* v. *Texas,* 539 U.S. 558 (2003)).

However, when Senator Durbin in his post-hearing questions expressly asked Judge Southwick whether he would have voted with the majority or the dissent in Lawrence (which, as noted, overruled Bowers), Judge Southwick did not answer this question, instead giving what appears to have become the rote answer of all nominees to lower courts—that if confirmed they will be ''bound to'' and will follow precedent. Particularly in light of Judge Southwick's reliance on the much-discredited and since overruled *Bowers* v. *Hardwick,* his refusal to answer Senator Durbin's question is quite disturbing, and further calls into question whether he can apply the law fairly to all Americans.

Judge Southwick's decisions in Richmond and in S.B. raise enormous red flags about his legal views. These are the types of cases that draw back the curtains to reveal critical aspects of a judge's legal philosophy and ideology. We simply cannot conceive of any situation in which calling an African American by the racial slur used in the Richmond case would be akin to calling her ''a teacher's pet,'' and we cannot fathom describing that slur as only ''somewhat'' derogatory, as the hearing officer did in an opinion essentially ratified by Judge Southwick. As America's recent experience with the racially offensive remarks leveled at the young women of the Rutgers University basketball team has shown, most of our country has progressed beyond racial slurs and recognizes the right of every individual to be treated with dignity regardless of race.

And we agree with the Human Rights Campaign, which stated in its May 23, 2007 letter to the Committee opposing Judge Southwick's confirmation, that if Judge Southwick ''believes that losing a child is an acceptable 'consequence' of being gay, [he] cannot be given the responsibility to protect the basic rights of gay and lesbian Americans.'' Every American, regardless of his or her sexual orientation, should likewise be accorded equality of treatment and dignity under the law.

Unfortunately, Judge Southwick's decisions in Richmond and S.B. call into serious question his understanding of and commitment to these fundamental principles. Moreover, these decisions are far from the only troubling aspects of his record. As the Mississippi State Conference of the NAACP has observed in connection with Judge Southwick's rulings on race discrimination in jury selection, ''[d]ozens of such cases reveal a pattern by which Southwick rejects claims that the prosecution was racially motivated in striking African-American jurors while upholding claims that the defense struck white jurors on the basis of their race.'' Indeed, in one such case, three other judges on Southwick's court harshly criticized him in a dissent, accusing the majority opinion written by Southwick of ''establishing one level of obligation for the State, and a higher one for defendants on an identical issue.'' *Bumphis* v. *State,* No. 93–KA–01157 COA (Miss. Ct. App., July 2, 1996).

During his time on the state court of appeals, Judge Southwick also compiled a strikingly pro-business record in divided rulings. According to an analysis by the Alliance for Justice, ''Judge Southwick voted, in whole or in part, against the injured party and in favor of special interests, such as corporations or insurance companies, in 160 out of 180 published decisions involving state employment law and torts cases in which at least one judge dissented. In 2004, a business advocacy group gave Judge Southwick the highest rating of any judge on the Mississippi Court of Appeals, based on his votes in cases involving liability issues.

In one case heard by his court involving an alleged breach of an employment contract, Judge Southwick went out of his way in a dissenting opinion to praise the doctrine of employment-at-will, which allows an employer to fire an employee for virtually any reason. Despite the fact that neither the existence nor merits of the at-will doctrine were at issue in the case, Judge Southwick wrote, ''I find that employment at will, for whatever flaws a specific application may cause, is not only the law of Mississippi but it provides the best balance of the competing interests in the normal employment situation. It has often been said about democracy, that it does not provide a perfect system of government, but just a better one than everything else that has ever been suggested. An equivalent view might be seen as the justification for employment at will.''

Dubard v. *Biloxi H.M.A.,* 1999 Miss. App. LEXIS 468, at *16 (Miss. Ct. App. 1999), rev'd 778 So. 2d 113, 114 (Miss. 2000). The National Employment Lawyers Association has cited this case in particular in explaining its opposition to Judge Southwick's confirmation. According to NELA, ''[t]hat Mr. Southwick would use the case as a platform to propound his views, rather than as a vehicle to interpret laws is problematic and suggests that he may be unable to separate his own views from his judicial duty to follow the law.'' Indeed, when asked about this case at his May 10 hearing, Judge Southwick admitted that he had put his personal ''policy'' views into a decision, but claimed to regret having done so.

Finally, we note that not all of Judge Southwick's record has been provided to the Committee, including more than two years' worth of unpublished decisions by the Mississippi Court of Appeals in cases on which he voted but in which he did not write an opinion. As the Richmond and S.B. cases underscore, the opinions that a judge chooses to join, or elects not to, can be just as revealing of his judicial philosophy as those that he writes. Particularly given what is known about Judge Southwick's record, the notion of proceeding with his nomination on less than a full record would be grossly irresponsible.

With a lifetime position on what is essentially the court of last resort for most Americans at stake, Judge Southwick has failed to meet the heavy burden of showing that he is qualified to fill it. The risks are simply too great to put someone with Judge Southwick's legal views on a federal Court of Appeals for life.

In this regard, we were particularly struck by a very telling moment at Judge Southwick's May 10 hearing. Senator Durbin, in questioning Judge Southwick, noted the great personal courage of federal Judge Frank Johnson of Alabama, whose landmark civil rights rulings were so critical to advancing the legal rights of African Americans in the south. Senator Durbin then asked Southwick, looking back on his career in public service, to cite an instance in which he had ''stepped out'' and taken an unpopular view on behalf of minorities. Judge Southwick could not identify one single instance in response to this question, even when Senator Durbin asked it a second time.

As more than 200 law professors wrote to the Senate Judiciary Committee in July 2001, no federal judicial nominee is presumptively entitled to confirmation. Because federal judicial appointments are for life and significantly affect the rights of all Americans, and because of the Senate's co-equal

role with the President in the confirmation process, nominees must demonstrate that they meet the appropriate criteria. These include not only an ''exemplary record in the law,'' but also a ''commitment to protecting the rights of ordinary Americans,'' and a ''record of commitment to the progress made on civil rights, women's rights, and individual liberties.'' Judge Southwick has failed to meet his burden of showing that he should be confirmed.

We had hoped that after the failed nominations of Charles Pickering and Michael Wallace, the President would nominate someone for this lifetime judicial position in the tradition of Frank Johnson, or at the least someone whose record did not reflect resistance to social justice progress in this country. Unfortunately, the President has not done so. We therefore strongly urge the Judiciary Committee to reject Leslie Southwick's confirmation to the Fifth Circuit.

Sincerely,

RALPH G. NEAS,
President.

WEST TEXAS EMPLOYMENT LAWYERS ASSOCIATION,
El Paso, TX, May 22, 2007.

Hon. PATRICK LEAHY,
Senate Judiciary Committee, Washington, DC.

DEAR SENATOR LEAHY: I write on behalf of the West Texas Employment Lawyers' Association. Collectively, the members of our group have represented thousands of employees, workers and average folk in matters ranging from employers' failures to pay our clients a minimum wage for work performed, sexual harassment claims, as well as age, race, disability and sex discrimination claims. We routinely practice in front of the Fifth Circuit Court of Appeals and we are very proud of the work we perform on behalf of the hardworking men and women of our nation, vindicating their right to be free from discrimination.

As an organization, we felt it necessary to go on record to oppose Leslie Southwick's nomination to the Fifth Circuit. Please oppose the nomination of Leslie Southwick to the Fifth Circuit. As civil rights and employment discrimination lawyers, it is our humble opinion that Leslie Southwick would do grievous and long-term harm to ordinary workers, and normal Americans whose last names are not ''Inc.'' or ''Ins. Co.''

Please, for the sake of our civil liberties and the average working American, do all in your power to prevent Leslie Southwick's nomination.

Sincerely,

ENRIQUE CHAVEZ, Jr.,
President.

NATIONAL GAY AND LESBIAN TASK FORCE,
Washington, DC, May 29, 2007.

Senator PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY AND SENATOR SPECTER: On behalf of the National Gay and Lesbian Task Force, Inc. a non-partisan civil rights and advocacy group organizing nationwide to secure lesbian, gay, bisexual, and transgender (LGBT) equality, I urge you to oppose the nomination of Leslie Southwick to the United States Court of Appeals for the Fifth Circuit. Judge Southwick has a disturbing record on LGBT rights. His statements during his confirmation hearing and written responses do not allay our concerns about how he would approach cases involving the rights of gay, lesbian, bisexual, and transgender Americans.

While on the Mississippi Court of Appeals, Judge Southwick joined an opinion removing an eight-year-old child from the custody of her mother, citing in part that the mother had a lesbian home. This decision was based on a negative perception about the sexual orientation of the biological mother and ignored findings by the American Psychological Association, along with every other credible psychological and child welfare group that lesbian and gay people are equally successful parents as their heterosexual counterparts.

Further, Judge Southwick was the only judge in the majority to join a deeply troubling concurrence written by Judge Payne. The concurrence asserts that sexual orientation is a choice and an individual who makes that choice must accept the negative consequences, including loss of custody. This statement underscores Judge Southwick's disregard for commonly accepted psychiatric and social science conclusions that sexual orientation is not a choice. Regardless, it also demonstrates Judge Southwick's callous disregard for the rights of LGBT families.

A nominee to the federal bench bears the burden of demonstrating a commitment to rigorously enforce the principles of equal protection and due process for all Americans. The judicial record of Judge Southwick makes clear that he cannot meet that burden. It also makes clear that the individual and equal protection rights of LGBT families would be in real jeopardy if he were confirmed.

We therefore oppose his nomination and request that you vote against his confirmation. It would be unconscionable for this Senate to confirm any judge who has illustrated such a clear anti-LGBT bias to a lifetime seat on the federal bench.

Sincerely,

MATT FOREMAN,
Executive Director.

NATIONAL COUNCIL OF JEWISH WOMEN,
New York, NY, June 5, 2007.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN LEAHY: On behalf of the 90,000 members and supporters of the National Council of Jewish Women (NCJW), I am writing to urge the Judiciary Committee to reject the nomination of Judge Leslie H. Southwick to the 5th Circuit Court of Appeals. Much of Judge Southwick's record remains unknown because the opinions in which he concurred were rarely published, but what we do know is deeply troubling. It does not appear that Judge Southwick will uphold federal law, including laws against discrimination on the basis of race, sex, national origin, and religion.

To the contrary. Judge Southwick joined a majority of the Mississippi appeals court in ruling that a state employee's dismissal for referring to a co-worker as ''a good ole n****'' was unwarranted, a ruling unanimously reversed by the Mississippi Supreme Court. In another case Judge Southwick wrote a concurring opinion positing that a ''homosexual lifestyle'' could be used to deprive a parent of custody of her own child.

Historically, the 5th Circuit Court of Appeals has served as a bulwark for the protection of civil rights. Sadly in recent years that record has evaporated. President Bush has twice nominated candidates perceived to be hostile to civil rights that fortunately were never confirmed. Judge Southwick appears to follow in the footsteps of his predecessor nominees in his apparent hostility to civil rights. It is also disappointing that President Bush again failed to take advantage of an opportunity to appoint an African American lawyer to the Mississippi seat on the 5th Circuit Court.

The Judiciary Committee's hearing of May 10, 2007, did not reverse the clear impression that Judge Southwick is unable to serve as an impartial judge on the 5th circuit, and much of his record still remains unavailable for analysis. The committee should reject his nomination and urge the President to submit a consensus nominee committed to respect for fundamental constitutional rights.

Sincerely,

PHYLLIS SNYDER,
NCJW President.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I am pleased the Senate will vote today on Judge Southwick's nomination. I hope my colleagues will join me in voting to confirm this dedicated public servant and courageous soldier.

Judge Southwick has many impressive credentials. Most impressive to me and most revealing of his character is his military service. In 1992, almost 20 years after graduating from law school, Judge Southwick interrupted his successful career as an attorney in private practice and obtained an age waiver to join the U.S. Army Reserves Judge Advocate General's Corps. Ten years later, at age 53, Judge Southwick volunteered to transfer to the 155th Brigade Combat Team of the Mississippi National Guard, a line combat unit that was deployed to Iraq in 2005. Judge Southwick's decision to join the Army is a model of self-sacrifice, and his actions helped to provide equal justice not only to American soldiers but also to the numerous Iraqi civilians whose cases he heard while he was stationed in Iraq. That is the kind of service this individual has provided to his country.

Most disappointing is that some Members of the Senate have questioned Judge Southwick's character by stating that ''He has an inclination toward intolerance and insensitivity.'' That is an interesting criteria that we should set for the confirmation of judges.

It is interesting that we are now going to have, for the first time in a long time, a requirement for 60 votes to move forward. As my colleagues might recall, a couple of years ago there was a proposal from some on this side of the aisle and some others that we should change the rules of the Senate so that only 51 votes would be necessary to confirm a nominee. At that time, I opposed that idea because I thought that it would then put us on a slippery slope to other requirements, other further erosion of the 60 votes upon which this body operates and which separates us from the House of Representatives. So a group of us, who were given the nickname of the ''Gang of 14,'' got together and agreed that we would not filibuster or require 60 votes unless there were ''extraordinary circumstances.'' As a result of that, Justices Roberts, Alito, and many other judges were confirmed by this body.

I think it is pretty obvious that agreement has broken down. I would

like to remind my colleagues that not that many years ago the benefit of the doubt went to the President and his nominees and that elections have consequences. Among those consequences are the appointments of judges—in some respects, perhaps the most important consequence of elections because, as we all know, these are lifetime appointments, and some of us on the conservative side have viewed over the years legislating from the bench in certain kinds of judicial activism as very harmful not only to our principles and philosophy and our view of the role of Government and the various branches of Government but the effects of some of that judicial activism.

So here we are now with a person who is clearly qualified, served in the military, and is now being accused of perhaps having an ''inclination toward intolerance or insensitivity.'' I can assure my colleagues there are some people living in Iraq today who don't believe Judge Southwick has an inclination toward intolerance and insensitivity. In fact, he has earned their gratitude for his efforts in installing the fundamental effects of democracy, and that is the rule of law.

I hope, Mr. President, once we get this over with, perhaps we can sit down again, Republicans and Democrats alike, and try to have a process where we could move forward with these judicial nominations. As we know, there are more vacancies every day. And I would even agree to give them a pay raise, which they seem to feel is rather important.

This is an important decision right now, which I think is larger than just the future of this good and decent man. Will others who want to serve on the bench be motivated to serve or not serve as they watch this process where someone accused of an inclination toward intolerance and insensitivity seems to be a new criteria?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I would like to echo the sentiments of Senator MCCAIN and add my two cents' worth to this debate. In this regard, there will be some good news today. I anticipate that this fine man will have a vote on the floor of the Senate, that the cloture motion will pass, and we will allow an up-or-down vote and he will get confirmed.

To my two colleagues from Mississippi: Well done. You have sent to the Senate an unusually well-qualified candidate by any standard you would like to apply to a person in terms of his humanity, his intellect, and his judicial demeanor. It is one of the best selections I have had the privilege of reviewing since I have been in the Senate.

The unfortunate news is that we are having to go through this particular exercise to get 60 votes. Quite frankly, I think the accusations being made against Judge Southwick are unfounded and just political garbage, to be honest with you.

He has received the highest qualified rating from the American Bar Association. Everyone who has ever served with Judge Southwick, in any capacity, whether it be as a judge, a lawyer, or private citizen, has nothing but glowing things to say about the man. And really, we are trying to use two legal events to cast doubt over the man. Six hundred cases he has sat in judgment upon, and the American Bar Association has reviewed all these cases, I would assume, and come to the conclusion that he is at their highest level in terms of judicial qualification.

Judge Southwick has done things as a person that have really been beneficial to Mississippi. He has tried to bring out the best in Mississippi. These are the types of people you would hope to represent the State of Mississippi—or any other State, for that matter—in terms of their demeanor, their tolerance, their willingness to work together with all groups to move their State forward.

Now, the two cases in question are just complete garbage—the idea that the term ''homosexual lifestyle'' was used in an opinion that he concurred in involving a custody case. That term, if you research it in the law, has been used in hundreds of different cases—over 100 cases. President Clinton mentioned it in 1993 when he was talking about his policy regarding the military. It is a term that was used in the Mississippi court cases that were the precedent for the case involved. And to say that he concurred in an opinion where the authoring judge used that term has somehow tainted him means you better go through the records and throw a bunch of judges off, Democrats and Republicans. That is ridiculous, completely ridiculous, and if applied in any fair way would just be—it would be chaos. You would have politicians, you would have judges, you would have people from all over the country who somehow, because of that term having been used in a judicial opinion, couldn't sit in judgment of others. That is ridiculous. Just go search the record of how this term has been used. To suggest that it means something in Judge Southwick's case but no one else's has a lot to say about this body, not Judge Southwick.

Now, the other case, he was sitting in judgment of an administrative board that decided not to dismiss an employee who used a racial slur in the workplace. To suggest that by somehow giving deference to the administrative board, whether or not their decision was capricious and arbitrary—the review standard at the appellate level—he embraces this term or is intolerant is equally ridiculous. I have an administrative board in the State of Mississippi that is an expert in the area of employment discrimination law, hiring and firing practices. The case is decided at the administrative level, and it comes up to appeal, and every judge involved says this is a terrible word to use but, as a matter of law, the board's finding it was an isolated incident did not justify a complete dismissal was the issue in the case.

Now, do we really want to create a situation in this country where the judges who want to get promoted will not render justice or apply the law, that they will be worried about themselves and what somebody may say about the context of the case? Are we going to get so that you cannot represent someone? What about the person who was being accused of the racial slur? What if you had represented them? Would we come here on the floor of the Senate saying: My God, you represented someone who said a terrible thing; therefore, you can't be a judge? I don't know about you, but as a lawyer, I have represented some pretty bad people. It was my job. And judges have to apply the law and use their best judgment.

So I hope this man will get an up-or-down vote and that this garbage we are throwing at our nominees will stop.

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

Mr. SCHUMER. Mr. President, could you tell me how much time we have remaining on our side?

The PRESIDING OFFICER. Thirty-three minutes 45 seconds, including the——

Mr. SCHUMER. The 10 minutes, yes. And how about on the other side?

The PRESIDING OFFICER. Twenty-seven minutes.

Mr. SCHUMER. Mr. President, I yield myself 10 minutes.

This is, indeed, an important debate, and I think you can look at it at two different levels.

First, I wish to argue strongly against the confirmation of Leslie Southwick to the Fifth Circuit Court of Appeals. We do not assess judicial nominees in a vacuum. In addition to the particular record of the nominee, there are a number of factors that figure into a Senator's proper evaluation of a candidate. We may consider, among other things, the history behind the seat to which the candidate has been nominated; the ideological balance within the court to which the nominee aspires; the diversity of that court; the demographics of the population living in that court's jurisdiction; the legacy of discrimination, injustice, and legal controversy in that jurisdiction. In this case, the context and circumstances of the nomination require us to view it with particular scrutiny. In this case doubt must be construed not for the nominee, as some of my colleagues—the Senator from Arizona and the Senator from South Carolina—have argued, but, rather, against the nominee.

The Fifth Circuit is perhaps the least balanced and least diverse in the country. The circuit has deservedly earned a reputation as being among the most conservative in the Nation. It has 15

judges, 11 filled by Republican Presidents. It has a large African-American population. There is only one African-American judge serving on it. The circuit has three seats traditionally reserved for Mississippians. That honor has never gone to an African American, even though Mississippi's population is more than one-third African American. Of course, the Fifth Circuit services areas that still suffer the scars and effects of decades of deep racial inequality and discrimination.

So you have to put things in context. We have had two other nominees who were extremely unsuitable candidates: Judge Pickering, whom this body rejected, and Michael Wallace, whom many, when you speak to them in Mississippi and in the African-American community there, said an African American might not get a fair trial in Michael Wallace's court. But they were nominated. The exact same reasoning could have been used for them. Those were the two previous nominees. We have to evaluate Judge Southwick against this backdrop.

When we do so, we cannot have confidence that he is a moderate jurist who will apply the law evenhandedly. Most disturbingly, Judge Southwick's judicial record provides no comfort that he understands or can wisely adjudicate issues relating to race, discrimination, and equal treatment. In this circuit above all, that should be a criterion. Whether you are from Mississippi or Arizona or South Carolina or New York, we should all care about that.

Let's go over some of the record. There is the Richmond case. The majority opinion in the Richmond case reflects an astonishingly bad decision. In that case, Judge Southwick joined a 5-to-4 ruling that essentially ratified the bizarre finding of a hearing officer who reinstated a State worker who had insulted a fellow worker by using the worst racial slur, the ''n'' word. To join that wrongheaded decision was to ignore history and common sense and common decency, to find a basis for excusing the most deeply offensive racial slur in the language. As the dissenters in Richmond pointed out, and there were four of them, the term ''is and always has been offensive. Search high and low, you will not find any non-offensive definition for this term. There are some words which by their nature and definition are so inherently offensive their use establishes the intent to offend.''

Of course, the Mississippi Supreme Court, the highest court in Mississippi, unanimously reversed. The Richmond case cannot be dismissed, as some would like, as just one case that Judge Southwick merely joined. He could have joined the very vocal dissent. He could have written a separate concurrence. He did neither. It is fair and proper to ascribe to Judge Southwick every word of the Richmond majority opinion—and the case is a touchstone, the case is a benchmark. It is a predictor and it is all the more important because there is little or nothing in the record to offset the impression it gives about Judge Southwick's jurisprudence.

Judge Southwick, at his hearing, said some of the hearing officer's analysis ''does not now seem convincing to me,'' even though he endorsed it only 9 years ago. This mild attempt at backtracking at his confirmation hearing does not provide comfort. In fact, it smacks of a nominee trying in some small way to please Senators who will decide his fate.

Beyond this defining case, moreover, Judge Southwick has shown over more than a decade of adjudicating cases that we should be concerned about his legal philosophy in so many areas: consumer rights, workers' rights, race discrimination in jury selection. He has shown a bias. I am not going to get into those cases, but, again, I would say there is a special onus on us all here.

Most of my colleagues—some on this side of the aisle—have said: Well, he issued thousands of opinions and only made one mistake. First, I am not sure that is true. When you look at his opinions, there are more mistakes than that. But let's even say he made this one mistake. Normally that would be a good argument. We all make mistakes. None of us before God is flawless, is perfect. Of course we are human beings. But certain mistakes are not forgivable. They may be forgivable of a person as a man or a woman, but not forgivable when you are elevating someone to the Fifth Circuit.

We have had a poison in America since the inception of this country. This is a great country. I am a patriot. I love this country dearly. It is in my bones. But the poison in this country, the thing that could do us in, is race and racism. Alexis de Tocqueville, the great French philosopher, came here in the 1830s. He made amazing predictions about this country. We were a tiny nation of farmers, not close to the power of Britain or France or Russia, the great European nations. De Tocqueville comes from France and says this country, America—this is in the 1830s—this country is going to become the greatest country in the world. He was right. Then he said one thing could do us in—race, racism and its poison. He was right again.

When it comes to the area of race and racism, we have to bend over backwards. The African-American community in Mississippi, in the country, is strongly against the Southwick nomination. They know this discrimination, this poison of America, better than anybody else. They know, even in 2007, the little winks and gestures that indicate a whole different subplot. When you condone using the ''n'' word, you are doing just that. Unfortunately, Judge Southwick—he may be a good man and I certainly don't think he is a racist, but his words have to be seen in context. Like it or not, when he is nominated to the Fifth Circuit he is carrying 200-some-odd years of bigotry that has existed in this country, and particularly in this circuit, on his back. That is the issue here. This is not just any mistake; this is not just any flaw. This comes in a whole subcontext.

Then I heard yesterday that Judge Southwick has not met with the one African Member of the Mississippi delegation, BENNIE THOMPSON. He has not met with, I believe it was called the Magnolia Bar Society, the African-American bar society in Mississippi. Should not Judge Southwick, after these allegations, have gone out of his way? He called yesterday, after BENNIE THOMPSON, Congressman THOMPSON, presented this to us. Shouldn't he have been camped out at BENNIE THOMPSON's door to try to explain what he did? It is the same kind of attitude. It is the same kind of subtext that, frankly, unless you are African American, you don't see.

JOHN MCCAIN is right. Elections have consequences. I do not expect our President to nominate to the Fifth Circuit somebody who has my views or the views of other Members of this side. Elections do have consequences. But on the issue of race, the poison of America, where the Fifth Circuit has been a cauldron, I do expect the President to nominate someone who is above reproach. Because we are not just judging a man or a woman as he or she treads on this Earth. We are judging somebody to go to the second highest court in the land. There must be—there must be—thousands of jurists of every race who meet the President's views but do not have this unfortunate, serious, and irremovable blemish upon them.

This one to me is not an ordinary situation. It is not one mistake out of 7,000 opinions. It is not judging whether Judge Southwick is a good man. Let's assume he is. It goes far deeper than that. It is not saying, as so many of my colleagues have said: We may have a Democratic President and we need, next time out, to make sure we come together on judges. I wish to do that. You know, when you vote for 90-some-odd percent of the President's nominees, almost every one of whom you disagree with philosophically, you are doing that. I have done that. Most Members on this side have done that. But that does not forgive this—again, in the context, not of somebody as a person but in the context of something to be elevated to the Fifth Circuit.

In conclusion, we have to make every effort to bend over backwards on the issue of race and racism in the Fifth Circuit and in the other circuits as well. We have not done that here. We are sort of casting it aside, finding an excuse, pushing it under the rug. Again, I do not believe Judge Southwick is a racist, but I do believe when it comes to the issue of race, one on the Fifth Circuit must be exemplary. This case shows he is not. He has failed

that standard. I urge my colleagues, every one of them on both sides of the aisle, to look into their hearts when they cast this important vote.

Mr. President, I ask unanimous consent that several letters regarding this Nomination be printed in the RECORD.

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

MAY 8, 2007.

Re Leslie Southwick

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY AND SENATOR SPECTER: We are writing on behalf of People for the American Way and the Human Rights Campaign and our combined grassroots force of more than 1,700,000 members and other supporters nationwide to express our serious concerns regarding the nomination of Mississippi lawyer and former state court judge Leslie Southwick to the United States Court of Appeals for the Fifth Circuit. As you know, Judge Southwick has been nominated by President Bush to fill a seat on the Fifth Circuit that the President has previously attempted to fill with Charles Pickering and then with Michael Wallace, both of whose nominations were met with substantial opposition, in large measure because of their disturbing records on civil rights. Now, with Judge Southwick, President Bush once again appears to have chosen a nominee for this seat who has a problematic record on civil rights, as further discussed below. And once again the President has passed over qualified African Americans in a state with a significant African American population that has never had an African American judge on the Fifth Circuit.

At the outset, we are constrained to note that there are significant concerns regarding the insufficient time provided to the Judiciary Committee to consider Judge Southwick's record in the careful manner required by the Senate's constitutional responsibilities in the confirmation process, as well as concerns raised by the fact that Judge Southwick's complete record does not appear to have been provided to the Committee. The confirmation hearing for Judge Southwick was scheduled with only a week's notice to the Committee, providing insufficient preparation time for the consideration of a controversial appellate court nominee. In addition, there has not been sufficient time since Judge Southwick submitted his responses to the Committee's questionnaire, in late February, for his entire judicial record to be reviewed; indeed, it appears that some of his record has not yet even been provided to the Committee.

Leslie Southwick served as a judge on the Mississippi Court of Appeals from 1995–2006. The number of cases in which he participated during that time is voluminous, well in excess of 7,000 by his own estimation. Moreover, according to Judge Southwick, many of the court's decisions during that time were not published at all (including all of the court's rulings—some 600 cases a year according to Southwick—issued over a period of approximately two and a half years during his tenure). While Judge Southwick in late February provided to the Committee a compact disc containing thousands of pages of his own unpublished opinions, to the best of our knowledge he has not provided copies of the court's unpublished opinions as to which he voted but that he did not write. As the cases discussed below underscore, it is critical that the Committee examine those rulings as well, for the opinions that a judge chooses to join, or elects not to, can be just as revealing of his judicial philosophy as those that he writes.

In addition, and to our knowledge, the Committee also has not been provided with Department of Justice records relevant to Southwick's tenure as a Deputy Assistant Attorney General during the administration of the first President Bush. These records would shed additional light on Southwick's legal philosophy and views, particularly on federal law issues that simply did not come before him while he served on the Mississippi Court of Appeals but that likely would if he were confirmed to a federal Court of Appeals. It is axiomatic that the Committee should not consider any judicial nominee without the nominee's full record or adequate time in which to review it.

Apart from these significant procedural issues, a preliminary review of Judge Southwick's record raises serious concerns about his record on civil rights. As an intermediate state appellate court, the Mississippi Court of Appeals hears appeals in state law criminal cases and typical state law civil cases such as contract disputes, tort claims, workers compensation matters, trusts and estates matters, and the like. It does not routinely consider the types of federal constitutional and civil rights matters that would shed a great deal of light on a judge's legal philosophy concerning these critical issues. Nonetheless, Judge Southwick's positions in two cases before that court during his tenure raising matters of individual rights are highly disturbing, and strongly suggest that Southwick may lack the commitment to social justice progress to which Americans are entitled from those seeking a lifetime appointment to the federal bench. We discuss each of these cases below.

Richmond v. *Mississippi Department of Human Services*, 1998 Miss. App. LEXIS 637 (Miss. Ct. App. 1998), *reversed*, 745 So. 2d 254 (Miss. 1999)

In Richmond, Judge Southwick joined a 5–4 ruling upholding the reinstatement of a white state social worker, Bonnie Richmond, who had been fired for referring to an African American co-worker as ''a good ole nigger'' at an employment-related conference. Richmond worked for the Mississippi Department of Human Services (''DHS''), which terminated her employment after other employees raised concerns about her use of the racial slur. The ruling that Southwick joined was unanimously reversed by the Supreme Court of Mississippi. The facts are as follows.

After she was fired, Richmond appealed her termination to the state Employee Appeals Board (''EAB''), which ordered her reinstatement. The hearing officer opined that Richmond's use of the racial slur ''was in effect calling the individual a 'teachers pet'.'' 1998 Miss. App. LEXIS 637, at *19. He considered the word ''nigger'' only ''somewhat derogatory,'' felt that DHS had ''overreacted,'' and was concerned that other employees might seek relief if they were called ''a honkie or a good old boy or Uncle Tom or chubby or fat or slim.'' Id. at *22–23.

The opinion that Southwick joined upheld the EAB's reinstatement of Richmond, essentially ratifying the astonishing findings and conclusions of the hearing officer. Moreover, the opinion that Southwick joined accepted without any skepticism Richmond's testimony that her use of the racial slur was ''not motivated out of racial hatred or animosity directed at her co-worker or toward blacks in general, but was, rather, intended to be a shorthand description of her perception of the relationship existing between the [co]-worker and [a] DHS supervisor.'' Id. at *9–10 (emphasis added).

There was a strong dissent by two judges who were obviously appalled by the hearing officer's findings and opinion. Unlike the majority, they openly criticized the hearing examiner's findings and also criticized the majority for presenting a ''sanitized version of [those] findings.'' Id. at *29. According to the dissenters,

The hearing officer's ruling that calling [the co-worker] a 'good ole nigger' was equivalent to calling her 'teacher's pet' strains credulity. . . . The word 'nigger' is, and has always been, offensive. Search high and low, you will not find any nonoffensive definition for this term. There are some words, which by their nature and definition are so inherently offensive, that their use establishes the intent to offend.

Id. at *26.

The dissenters would have held that the EAB's actions were not supported by substantial evidence, and would have upheld the decision by DHS to fire Richmond. Another judge wrote a separate dissent, joined by two other judges, in which he would have remanded the case to the EAB so that some penalty could be imposed on Richmond, or detailed findings made as to why no penalty was appropriate.

DHS appealed the ruling of Southwick's court to the Mississippi Supreme Court, which unanimously reversed. The Supreme Court majority ordered that the case be sent back to the EAB to impose a penalty other than termination or to make detailed findings as to why no penalty should be imposed. Some of the justices on the court would have gone even further and reinstated the decision by DHS to fire Richmond. But all of the Supreme Court justices rejected the view of the Court of Appeals majority (which included Southwick) that the EAB had not erred in ordering Richmond's reinstatement.

S.B. v *L.W.*, 793 So. 2d 656 (Miss. Ct. App. 2001).

In this case, Judge Southwick joined a decision by the Mississippi Court of Appeals, upholding—over a strong dissent—a chancellor's ruling taking an eight-year-old girl away from her bisexual mother and awarding custody of the child to her father (who had never married her mother). The mother was living at the time with another woman, and in awarding custody to the father, the chancellor was plainly influenced by the mother's sexual orientation and his obvious concern about having the girl continue to live in what he called ''a lesbian home.'' Judge Southwick not only joined the majority opinion upholding the chancellor's ruling, but alone among all the other judges in the majority, he joined a concurrence by Judge Payne that was not only gratuitous, but gratuitously anti-gay.

In taking the girl away from her mother (with whom she lived), the chancellor cited a number of factors that he claimed weighed in favor of the father, but it is clear that he was heavily influenced by the mother's sexual orientation. For example, the chancellor stated that the factor of ''[s]tability of the home environment'' weighed in favor of the father, because ''he is in a heterosexual environment. Has a home there that is an average American home.'' 793 So. 2d at 666. Meanwhile, the chancellor said, ''[t]o place the child with [the mother], the child would be reared in a lesbian home, which is not the common home of today. To place a child with [the father], the child would be reared in a home which is considered more common today.'' Id.

The mother appealed to the Court of Appeals which, as noted above, upheld the chancellor's ruling taking her daughter away from her. The majority opinion, which Southwick joined, held that the chancellor had not erred in taking the mother's sexual

orientation into consideration as what it viewed as one factor in his ruling. In addition to the disturbing substance of the majority's ruling, its language is also troubling, and refers repeatedly to what it calls the mother's ''homosexual lifestyle'' and her ''lesbian lifestyle.''

Not only did Southwick sign on to the majority opinion, but he also made an affirmative decision to join a concurrence by Judge Payne that was gratuitously anti-gay—and was the only other judge in the majority to do so. The concurrence appears to have been written for the sole purpose of underscoring and defending Mississippi's hostility toward gay people and what it calls ''the practice of homosexuality'' (id. at 662), in response to the position of the dissenters (see below) that the chancellor had erred. (The word gay is not used; the concurrence refers repeatedly to ''homosexuals'' and ''homosexual persons.'') The concurrence begins by stating that the Mississippi legislature has ''made clear its public policy position relating to particular rights of homosexuals in domestic relations settings.'' Id. at 662. It then proceeds to note that Mississippi law prohibits same-sex couples from adopting children—although this law had nothing to do with the case, since the mother was the birth mother—and also notes that state law makes ''''the detestable and abominable crime against nature''''—which it says includes ''homosexual acts''—a ten-year felony. Id.

Finally, the concurrence takes a huge and troubling states' rights turn, claiming that ''[u]nder the principles of Federalism, each state is permitted to set forth its own public policy guidelines through legislative enactments and through judicial renderings. Our State has spoken on its position regarding rights of homosexuals in domestic situations.'' Id. at 664. In other words, according to the separate concurrence that Southwick chose to join, federalism gives Mississippi the right to treat gay people as second-class citizens and criminals. The views expressed in this concurrence strongly suggest that Judge Southwick is hostile to the notion that gay men and lesbians are entitled to equal treatment under the law.

Two judges dissented, and in particular noted that there had been no finding that there was any conduct harmful to the child, and that ''it is the modern trend across the United States of America to reject legal rules that deny homosexual parents the fundamental constitutional right to parent a child.'' Id. at 668.

As more than 200 law professors wrote to the Senate Judiciary Committee in July 2001, no federal judicial nominee is presumptively entitled to confirmation. Because federal judicial appointments are for life and significantly affect the rights of all Americans, and because of the Senate's co-equal role with the President in the confirmation process, nominees must demonstrate that they meet the appropriate criteria. These include not only an ''exemplary record in the law,'' but also a ''commitment to protecting the rights of ordinary Americans,'' and a ''record of commitment to the progress made on civil rights, women's rights, and individual liberties.''

The burden is on Judge Southwick to demonstrate that he satisfies these important criteria for confirmation. In addition to addressing the serious concerns raised by the matters discussed herein and those that have been raised by others, Judge Southwick must also make his full record available, and the Committee must have a reasonable opportunity to examine it. Because the Supreme Court hears so few cases, the Courts of Appeals really are the courts of last resort in most cases and for most Americans. It is therefore imperative that the Committee not engage in a rush to judgment over anyone seeking a lifetime seat on a federal appellate court, and that it insist upon being provided with the nominee's complete legal record.

It is critical that the Committee closely scrutinize Judge Southwick's full record and his jurisprudential views and legal philosophy, particularly with respect to matters critical to individual rights and freedoms. Until the Committee has the opportunity to do that, and unless the significant questions raised to date by Judge Southwick's record are resolved satisfactorily, the Committee should not proceed with consideration of Judge Southwick's nomination.

Sincerely,

JOE SOLMONESE,
President, Human Rights Campaign.

RALPH G. NEAS,
President, People For the American Way.

MAGNOLIA BAR ASSOCIATION, INC.,
Jackson, Mississippi, May 30, 2007.

Re Nomination of Leslie Southwick

Hon. PATRICK LEAHY,
Chairman, United States Senate, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: The Magnolia Bar Association, Inc. opposes the nomination of Leslie Southwick to the United States Court of Appeals for the Fifth Circuit.

Founded in 1955, the Magnolia Bar was formed as all organization of African-American lawyers in Mississippi at a time when the Mississippi Bar was only open to white attorneys. The Magnolia Bar, an affiliate of the National Bar Association, is now a biracial organization whose membership is committed to the same ideals of racial equality that drove our founders to form the Magnolia Bar in the first place.

A federal judgeship is a lifetime position. Any time there is an opening, there are a number of people who could be considered, and no one is necessarily entitled to such an appointment. While the President has a right to nominate, the Senate and its Judiciary Committee must insure that the nominations do not form a pattern that is racially discriminatory in purpose or effect. President Bush has demonstrated an absolute disdain for appointing African-Americans to the federal judiciary; particularly within the states representing the Fifth Circuit. Of his seven nominations to the Fifth Circuit Court of Appeals and his 32 nominations to the district courts, not one nominee is an African-American. This is particularly painful as African-Americans comprise 37% of the population of Mississippi according to the most recent census. This is the highest of the fifty states. Louisiana is the second highest while Texas also has a high African-American population percentage. Confirmation should focus not simply on the nominee, but on the impact the person's appointment will have on the federal judiciary and the interpretation of the law.

Leslie Southwick's nomination continues a stark pattern of racial discrimination and racial exclusion in appointments by President Bush to the Fifth Circuit and to the federal judiciary from Mississippi. If the Senate Judiciary Committee approves this nomination, it will perpetuate this pattern of exclusion and will, in our view, bear equal responsibility for it. Moreover, Judge Southwick's record as a state court of appeals judge in Mississippi suggests that he is not the right person for the Fifth Circuit Court of Appeals at this time in our history, and that his presence there could lead to an improperly narrow interpretation of the constitution and the civil rights laws. There are many others from Mississippi who would make good federal judges, some of whom are African-American. We ask that you not approve this nomination, but instead allow President Bush to reconsider and perhaps nominate someone who will add to the Fifth Circuit's stature, diversity, and sensitivity to the need to enforce fully the civil rights laws.

Despite an ever-growing pool of highly qualified candidates from which to choose, all seventeen Mississippi nominees for federal judgeships the past twenty-two years have been white. The only appointment of an African-American federal judge in the history of Mississippi, the twentieth state to join the union, was when Judge Henry Wingate was appointed by President Reagan to the district court in 1985. Of the sixteen active and senior judges from Mississippi on the federal district courts and court of appeals, only one is African-American. Of the nineteen active and senior judges on the Fifth Circuit, only one is African-American—Carl Stewart of Louisiana, who was appointed by President Clinton. Incidentally, Judge Stewart is only the second African-American to have been appointed to the Fifth Circuit since the court was created by the Judiciary Act of 1869.

Having an appreciation of Mississippi's long history of racial apartheid, disenfranchisement, interposition and massive resistance, it is scandalous that President Bush has not seen fit to nominate not one African-American from our state to the federal judiciary.

Fortunately, the Senate Judiciary Committee has not ratified all of these nominees. It did not approve the earlier nominations of Charles Pickering and Mike Wallace to this seat. Yet, President Bush continues his pattern of racial exclusion by submitting only white people for these appointments, and submitting those who have not shown a sufficient appreciation of the need for racial progress in Mississippi. It is vitally important for the Senate Judiciary Committee to stand firm and not ratify President Bush's brazen disregard of the need to integrate the federal judiciary and to nominate those who have demonstrated they will fully enforce the civil rights laws. If President Bush is unwilling to help create a racially integrated federal judiciary that is his prerogative. The Senate, however, should not be an accomplice to this unjustifiable behavior. It should keep the seats open until he is willing to do so or until we have a new President who will have a fresh opportunity to do so.

Several organizations have already expressed concern about the decisions of Judge Southwick and whether he will fairly and properly interpret the law with respect to the civil rights of all. We share those concerns. Particularly troubling is the decision Judge Southwick joined in the case of Richmond v. Mississippi Department of Human Services. The Mississippi Court of Appeals does not review many cases involving racial issues in employment. This is not a situation where this decision is an outlier in what otherwise is a progressive record on issues of race in the workplace. Judge Southwick and his colleagues in the 5–4 majority basically held that the Mississippi Department of Human Services—an agency of the State of Mississippi—could not discipline this worker who called a co-worker a ''good ole nigger.'' This decision was the subject of publicity in Mississippi, Clarion Ledger, August 5, 1998, and seemed to send a message that the Court of Appeals majority did not believe state officials should have the power to eliminate this sort of behavior from the workplace.

In written questions by Senator Durbin, Judge Southwick was asked why he believed

that the hearing officer was not acting arbitrarily and capriciously when he (the hearing officer) concluded that the use of the word ''nigger'' was similar to the terms ''good old boy or Uncle Tom or chubby or fat or slim.'' Judge Southwick responded by saying that ''[i]t was the EAB's [Employee Appeals Board] decision, though, not that of the hearing officer, that was subject to our analysis . . .'' But that statement is misleading. The Richmond majority opinion, which Judge Southwick joined, states: ''The hearing officer's findings, subsequently adopted by the full Board, address two separate aspects of the matter under consideration.'' 1998 Miss. App. LEXIS 637 *4. The opinion adds: ''In order to reverse the EAB, we must determine that there was not substantial evidence in the record to support the findings made by the hearing officer and ratified by the full board.'' Id. *7. As explained by the dissent of Judge King (a distinguished African-American from Mississippi who is now Chief Judge of the Mississippi Court of Appeals having been appointed as Chief by the Chief Justice of the Mississippi Supreme Court and who would make an excellent federal appellate judge): ''Because the EAB made no findings of its own, we can only conclude that it incorporated by reference and adopted the findings and order of the hearing officer.'' Id. * 19. As Judge King later said: ''The majority opinion is a scholarly, but sanitized version of the hearing officer's findings and is subject to the same infirmities found in that opinion.'' Id. *28–29.

Moreover, we agree with Judge King, that one can ''[s]earch high and low, [and] you will not find any non-offensive definition for [the] term [nigger], and it ''is so inherently offensive that it is not altered by the use of modifiers, such as 'good ole.'' Id. at 26–27 Having used the term, which has always been offensive, within a 60% black division of a state agency with more than 50% black employees demonstrated a gross lack of judgment that the agency should have dismissed the employee. As Justice Fred Banks, the African-American member of the Supreme Court at the time, explained in his concurring opinion:

[I]t is clear [the Department of Human Services] had an interest in terminating Bonnie Richmond because not to have taken some sort of action regarding the comment made by her, could possibly have subjected the agency to a claim of racially hostile environment claim under federal law, and therefore retaining Bonnie Richmond could constitute negligence. *Richmond* v. *Mississippi Dept. of Human Services*, 745 So.2d 254, 260 (Miss. 1999)(Banks, J., concurring)(joined by Sullivan, P.J., and Smith, J.)

We are also troubled by the other decisions and positions cited in the various questions propounded by members of the Judiciary Committee and in the statements issued by other organizations expressing concern over this nomination. We question whether Judge Southwick will properly enforce the law when it comes to the rights of those who are unpopular and who are marginalized by the political process. The Fifth Circuit needs a moderating influence at this point in history, but it appears this appointment will have the opposite effect.

As Senator Durbin pointed out at the hearing on Judge Southwick's nomination, the Fifth Circuit Court of Appeals was once a collection of several heroic judges who steadfastly enforced the civil rights of African-Americans and other dispossessed groups even though many white people in the South were quite hostile to the notion of equal rights under the law. Unfortunately, the present-day Fifth Circuit has often retreated from that legacy by applying a narrow and overly technical interpretation of the constitution and the civil rights laws. Moreover, at a time when the bars of Mississippi, Louisiana, and Texas have become racially integrated, and when many governmental bodies in those states have achieved significant racial diversity, the Fifth Circuit presently stands as an almost all-white judicial body in the heart of the Deep South. This is a sad legacy and the Senate Judiciary Committee should do everything it can to end that legacy rather than perpetuate it.

Thank you for your consideration.

Sincerely,

CARLTON W. REEVES,
President,
Magnolia Bar Association, Inc.

NATIONAL EMPLOYMENT LAWYERS ASSOCIATION,
San Francisco, California, May 30, 2007.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, Washington, DC.
Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, Washington, DC.

DEAR SENATORS LEAHY AND SPECTER: I am writing to you as President of the National Employment Lawyers Association (NELA) to express our strong opposition to the nomination of Leslie Southwick to the Fifth Circuit Court of Appeals. After reviewing Mr. Southwick's background and legal experience, we believe he is not qualified to be appointed to the federal bench.

Mr. Southwick has been nominated to the same Fifth Circuit seat that has been steeped in controversy: President Bush recess appointed Charles Pickering to the seat in January 2004 and nominated Michael Wallace to the seat in 2006. NELA strongly opposed both of those nominees and takes a similar position on Mr. Southwick's nomination.

Like Pickering and Wallace, Mr. Southwick has espoused extreme views reflecting a lack of commitment to equality and justice in the workplace. For example, Mr. Southwick joined a troubling 5–4 decision from the Mississippi Court of Appeals that excused the use of a racial slur by a white state employee. In Richmond v. Mississippi Dep't of Human Services, Bonnie Richmond, an employee with the Mississippi Department of Human Services (DHS), was terminated when she referred to an African-American coworker as a ''good ole n*****'' at a meeting that included agency executives. Richmond appealed her termination to the Mississippi Employee Appeals Board (EAB). A hearing was conducted by one member of the EAB who had been designated to act as hearing officer.

Among other things, the hearing officer concluded that the ''DHS overreacted'' to Richmond's comments, because the term ''was not a racial slur, but instead was equivalent to calling [the African American employee] 'teacher's pet.''' The hearing officer stated, ''I understand that the term 'n*****' is somewhat derogatory, but the term has not been used in recent years in the conversation that it was used in my youth, and at that point—at that time it was a derogatory remark . . . I think that in this context, I just don't find it was racial discrimination.''

The majority, which included Mr. Southwick, affirmed the EAB hearing officer's decision without reservation. They found that, taken in context, the slur was an insufficient ground to terminate Richmond's employment in part because it ''was not motivated out of racial hatred or racial animosity directed toward a particular co-worker or towards blacks in general.'' The dissent, rightly disturbed by the majority's failure to acknowledge the inherent offensiveness of the epithet, stated that ''the hearing officer and the majority opinion seem to suggest that absent evidence of a near race riot, the remark is too inconsequential to serve as a basis of dismissal.''

When Judiciary Committee member Senator Russ Feingold, at Mr. Southwick's hearing earlier this month, characterized the argument relied upon by Mr. Southwick in the case as ''a pretty shocking piece of analysis,'' Mr. Southwick even admitted that the reasoning ''does not now seem convincing to me.'' However, his backpedaling comes too late and fails to allay NELA's concerns that Mr. Southwick, if confirmed to the Fifth Circuit, will turn a blind eye to discrimination in the workplace.

Indeed, NELA is troubled by Mr. Southwick's views on other workplace issues, particularly his zealous support for the employment-at-will doctrine, a doctrine which provides that employers can fire employees for virtually any reason. In Dubard v. Biloxi, H.M.A., the court addressed the issue, among others, of whether there was sufficient evidence to show that the defendant did not breach the plaintiff's employment contract or that the defendant did not wrongfully discharge the plaintiff. In a dissenting opinion that focused less on the merits of the case and more on the virtues of the employment-at-will doctrine, Mr. Southwick went to great lengths to justify a legal theory that has been the subject of intense legal, judicial and academic controversy. He wrote: ''I find that employment at will, for whatever flaws a specific application may cause, is not only the law of Mississippi but it provides the best balance of the competing interests in the normal employment situation. It has often been said about democracy, that it does not provide a perfect system of government, but just a better one than everything else that has ever been suggested. An equivalent view might be seen as the justification of employment at will.''

Mr. Southwick casually, and without any supporting citations, equated the doctrine of employment at will with democracy. In fact, it is its polar opposite. That doctrine is often used to justify employers' decisions to discharge employees who have engaged in pro-union activities or in other conduct protected by anti-discrimination, minimum wage and overtime, occupational safety and health, family and medical leave, whistleblower protection, and other federal and state statutes. An employer can cause devastating financial and emotional harm to an employee; an individual employee rarely has that same power. Mr. Southwick's endorsement of that doctrine calls into question his willingness to vigorously enforce federal legislation that imposes restrictions on an employers ability to fire employees without a good reason or, for that matter, without any reason.

Based on his demonstrated insensitivity to race issues, combined with his apparent inability to divorce his views from his judicial obligation to be fair and independent, NELA believes that Mr. Southwick would be in the mold of previous nominees like Charles Pickering and Michael Wallace who had never been friendly to employee rights. As such, NELA is strongly opposed to Mr. Southwick's nomination to the Fifth Circuit Court of Appeals and believes he should not be confirmed by the Senate.

Thank you for your consideration. If you have any questions, please feel free to contact NELA Program Director Marissa Tirona.

Sincerely,

KATHLEEN L. BOGAS,
President,
National Employment Lawyers Association.

Mr. WARNER. Mr. President, I rise today in support of the nomination of Judge Leslie Southwick to serve on the U.S. Circuit Court of Appeals for the Fifth Circuit.

Article II, section 2 of the U.S. Constitution explicitly provides the responsibilities of the executive branch of Government and the Senate with respect to judicial nominations. Article II, section 2 of the Constitution reads, in part, that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the Supreme Court and all other Officers of the United States . . . .''

Thus, the Constitution provides the President of the United States with the responsibility of nominating individuals to serve on our Federal bench.

The Constitution provides the Senate with the responsibility of providing advice to the President on those nominations and with the responsibility of providing or withholding consent on those nominations.

In this respect, article II, section 2 of our Constitution places our Federal judiciary—a coequal branch of Government—in a unique posture with respect to the other two co-equal branches of our Federal Government. Unlike the executive branch and unlike the Congress, the Constitution places the composition and continuity of our Federal judiciary entirely within the coordinated exercise of responsibilities of the other two branches of Government. Only if the President and the Senate fairly, objectively, and in a timely fashion exercise these respective constitutional powers can the judicial branch of Government be composed and maintained so that our courts can function and serve the American people.

For this reason, in my view, a Senator has no higher duty than his or her constitutional responsibilities under article II, section 2—the advice and consent clause.

During the course of my 28 years in the Senate, I have always tried to fairly and objectively review a judicial nominee's credentials prior to deciding whether I will vote to provide consent on a nomination. I look at a wide range of factors, primarily character, professional career, experience, integrity, and temperament for lifetime service on our courts. While I certainly recognize political considerations, it is my practice not to be bound by them.

Having reviewed Judge Southwick's nomination, in my view, he is eminently qualified to serve on the Federal bench. I note that the American Bar Association, often cited as the ''gold standard'' of review of judicial nominees, agrees with me as it has given Judge Southwick its highest rating of ''well-qualified.''

Judge Southwick's credentials are well-known but worth repeating. He received his bachelor's degree, cum laude, from Rice University and then proceeded to law school at the University of Texas.

Subsequent to his law school graduation, he served as a law clerk for two jurists: a judge on the U.S. Court of Appeals for the Fifth Circuit—the court for which he now has been nominated—and for a judge on the Texas Court of Criminal Appeals.

Upon completing his clerkships, Mr. Southwick entered private practice with a law firm in Mississippi, starting as an associate but rising to the level of partner 6 years later. After 12 years of private practice, he joined the U.S. Department of Justice in the George H. W. Bush administration, working as Deputy Assistant Attorney General for the Civil Rights Division.

From 1995 until 2006, Leslie Southwick served as a member of the Mississippi Court of Appeals. During this time, Judge Southwick also served his country in uniform.

From 1992 through 1997, he was a member of the Judge Advocate General's Corps in the U.S. Army Reserve. In 2003, he volunteered to serve in a line combat unit, the 155th Separate Armor Brigade. In 2004, he took a leave of absence from the bench to serve in Iraq with the 155th Brigade Combat Team of the Mississippi National Guard.

Mr. President, Judge Southwick is obviously very well qualified to serve on the Federal bench. Not only does he meet the requisite academic requirements, he also has real world experience in private practice and a dedication to public service.

In my view, he deserves to be confirmed to the Federal bench. I urge my colleagues to support this eminently qualified nominee.

Mr. HATCH. Mr. President, I strongly support the nomination of Judge Leslie Southwick to the U.S. Court of Appeals for the Fifth Circuit. His confirmation is compelling for two reasons. Judge Southwick should be confirmed because of his merits, and Judge Southwick should be confirmed because of the traditions of this body.

Judge Southwick's merits are obvious. He is a good man and a good judge. Leslie Southwick has long been active serving his community, his church and his country. He is a man of character and integrity.

Our colleagues from Arizona, South Carolina, and Virginia, Senators MCCAIN, GRAHAM, and WARNER, have spoken forcefully and eloquently from their perspective as veterans about Judge Southwick's military service. He volunteered for service in Iraq when he was old enough to have children serving in Iraq. He did not have to do that, he offered to do that. It seems to me that we want men and women on the Federal bench who have this selfless commitment to serving others.

Leslie Southwick is also a good judge. What could be more directly relevant to a Federal appeals court nomination than 12 years of State appeals court service? During that time, he participated in more than 7,000 cases and wrote nearly 1,000 opinions.

Earlier this year, the Congressional Black Caucus said that, in deciding whether to confirm Judge Southwick, we should consider how often his majority and concurring opinions were reversed on appeal. I do think that is a legitimate factor to consider. I thought I would find an unusually high number, that he has been repeatedly rebuked, rebuffed, and reversed, that Mississippi Supreme Court had to routinely put him in his judicial place. I found just the opposite. Only 21 of Judge Southwick's majority or concurring opinions were reversed or even criticized by the Mississippi Supreme Court. That is less than 2 percent. I am indeed impressed by that low figure because it shows that Judge Southwick's work as a judge stands up under scrutiny. If that is an appropriate standard for evaluating his nomination, we should confirm him immediately.

Judge Southwick's critics suggest that he is supposedly out of the mainstream. That is the phrase liberals invented 20 years ago to attack judicial nominees who they predict will not rule a certain way on certain issues. This is a completely illegitimate standard for evaluating judicial nominees and is based on a tally of winners and losers, as if judges are supposed to decide winners and losers by looking at the parties rather than at the law and the facts. Perhaps my liberal friends could publish a confirmation rate card, telling us how often judges are supposed to rule for one party or another in certain categories of cases. But the case against Judge Southwick is even more ridiculous than that. The case against Judge Southwick's nomination rests on just two, of the 7,000 cases in which he participated. It rests on two opinions, just two, that he did not even write. No one has argued that those cases were wrongly decided. No one has argued that the court ignored the law. No one is making that argument because no one can. In fact, the Washington Post editorialized that Judge Southwick should be confirmed and said that while they might not like the results in these two cases, they could not argue with what the Post admitted was a ''legitimate interpretation of the law.''

I ask my colleagues a very important, perhaps the most important, question: Are judges supposed to be legally correct or politically correct? Are judges supposed to decide cases based on legitimate interpretation of the law or based on which side wins or loses? Are judges supposed to apply the law or ignore the law? That question of what judges are supposed to do lies at the heart of every conflict over a judicial nominee, including the one before us today.

The case against Judge Southwick is that, in just two cases with opinions he did not write, the court was legally correct instead of being politically correct. The case against Judge Southwick is that, in just two cases, the court did not ignore the law. What

kind of crazy, topsy-turvy argument is this, that Judge Southwick should not be confirmed because as a state court judge he stuck to the law? I think that exposing the real argument against him is enough to show that there is no real argument against him at all. I thought we wanted judges on the Federal bench who would rule based on the law, who would be committed to equal justice for every litigant coming before them.

When it comes to evaluating Judge Southwick's record, whom should we believe—partisan and ideological critics here in Washington or lawyers and judges who have worked with Judge Southwick for many years? That is not even a close call. Everyone who actually knows him, everyone who has actually worked with him, says that Judge Leslie Southwick is fair, decent, hard-working, and committed to equal justice under law. You would have to twist and contort his record into something else entirely to conclude otherwise.

The American Bar Association also looked at Judge Southwick's fitness for the Federal bench. They evaluated his qualifications and record not once but twice, last year when he was nominated to the U.S. District Court and again this year after his nomination to the U.S. Court of Appeals. I must be candid with my colleagues regarding the ABA's two ratings of Judge Southwick. In the interest of full disclosure, I must be honest that the ABA's two ratings of Judge Southwick are not the same and, quite frankly, I think this must be considered when we vote. The ABA's rating for Judge Southwick's current appeals court nomination is higher than their rating for his district court nomination. The ABA says that it looks specifically at a nominee's compassion, freedom from bias, openmindedness and commitment to equal justice under law. The ABA's highest ''well qualified'' rating means Judge Southwick receives the highest marks for these qualities. I thought we wanted judges on the Federal bench who are compassionate, free from bias, openminded, and committed to equal justice under law. Judge Southwick's critics have offered nothing, absolutely nothing, to rebut this conclusion. Nothing at all.

I think the record, the evidence, and the facts are clear. Judge Southwick is a good man and a good judge, and, based on his merits, he should be confirmed.

Judge Southwick should also be confirmed because of the traditions of this body. Traditionally, the Senate has respected the separation of powers when it comes to the President's appointment authority. Under the Constitution, the President has the primary appointment authority. We check that authority, but we may not hijack it. We may not use our role of advise and consent to undermine the President's authority to appoint judges. That is why, as I have argued on this floor many times, it is wrong to use the filibuster to defeat judicial nominees who have majority support, who would be confirmed if only we could vote up or down. That is why I have never voted against cloture on a judicial nomination. That is why I argued against filibusters of even President Clinton's most controversial judicial nominees. And believe me, the case against some of those nominees was far greater, far more substantial, by orders of magnitude, than the nonexistent case against Judge Southwick.

Traditionally, the Senate has not rejected judicial nominees based on such thin, trumped-up arguments. We have not rejected nominees who received the ABA's unanimous highest rating. In fact, I remember when this body confirmed judicial nominees of the previous President whom the ABA said were not qualified at all. We have not rejected judicial nominees who received such uniform praise from those who know them and worked with them. We have not rejected judicial nominees for refusing to ignore the law.

Traditionally, the Senate has respected the views of home-state Senators. Our colleagues from Mississippi, Senators COCHRAN and LOTT, are respected and senior members of this body. They strongly support Judge Southwick, and we should respect their views. Such home-state support was an important factor in moving even the most controversial Clinton judicial nominees to this floor and onto the Federal bench.

So I say to my colleagues that Judge Southwick's merits and our traditions mean that he should be confirmed. Judge Southwick is a good man and a good judge. Our traditions respect the separation of powers, respect the obvious merits of nominees, and respect the views of home-state Senators. I urge my colleagues not to veer from that path, but to support this fine nominee and keep the confirmation process from slipping further into the political mire.

I urge my colleague to vote for cloture and to vote for confirmation.

Mr. FEINGOLD. Mr. President, I will vote against the nomination of Judge Leslie Southwick to the U.S. Court of Appeals for the Fifth Circuit. I believe he should not be confirmed.

The context for this nomination is important, so I want to turn to that first.

During the last 6 years of the Clinton administration, this committee did not report out a single judge to the Fifth Circuit Court of Appeals. And, as we all know, that was not for lack of nominees to consider. President Clinton nominated three well-qualified lawyers to the court of appeals. None of these nominees even received a hearing before this committee. When Chairman LEAHY held a hearing in July 2001 on the nomination of Judge Edith Brown Clement, only a few months after she was nominated, it was the first hearing for a Fifth Circuit nominee since September 1994. Judge Clement was quickly confirmed. We have also confirmed two other Fifth Circuit nominees during this administration, Edward Prado and Priscilla Owen.

So there is a history here. Some may think it is ancient history, but the fact is that nominees to this circuit were treated particularly unfairly during the Clinton administration, and there was a special burden for the current administration to work with our side on nominees for it. To ignore this history would be to simply reward the behavior of the Republicans during the last 6 years of the Clinton administration. And the numbers tell a very clear tale—three judges confirmed for this circuit during the first 6 years of this administration, versus none in the last 6 years of President Clinton's term.

President Bush did not act in a bipartisan way, of course, in the case of the seat for which Judge Southwick has been nominated. First, he nominated Judge Charles Pickering, leading to one of the most contentious floor fights of his first term. Judge Pickering was never confirmed by the Senate, but in a further slap to this institution, the President put him on the court through a recess appointment. Then, when Judge Pickering retired, the President nominated Michael Wallace, whom the ABA judicial nominations screening committee unanimously gave a rating of ''not qualified'' based on comments from judges and lawyers in his own State concerning his temperament and commitment to equal justice. Mr. Wallace ultimately withdrew his nomination when it became clear he could not be confirmed.

Another important part of the context of this nomination is that except for the DC Circuit, the Fifth Circuit has the largest percentage of residents who are minorities of any circuit—over 40 percent. Thirty-seven percent of the residents of Mississippi are African American. Yet only 1 of the 19 seats on the circuit is currently held by an African American judge. The Fifth Circuit is a court that during the civil rights era issued some of the most significant decisions supporting the rights of African-American citizens to participate as full members of our society. It is a circuit where cases addressing the continuing problems of racism and discrimination in our country will continue to arise.

In this context, as we come to the end of this President's term, I wanted very much to see, if not an African-American nominee, at least a nominee whose commitment to equal rights for all Americans and equal justice under law is unassailable. Judge Southwick is not that nominee. While the record we have been able to review is not extensive, two decisions he made as a judge raise real red flags.

In the Richmond case, Judge Southwick joined the majority in a split decision upholding a hearing examiner's decision that an employee's use of the most offensive racial slur in our Nation's history was not adequate

grounds for dismissal. That hearing examiner said that the slur was ''somewhat derogatory, but the term has not been used in recent years in the conversation that it was used in my youth, and at that point—at that time it was a derogatory remark. I think that in this context, I just don't find it was racial discrimination.''

A unanimous Mississippi Supreme Court reversed the decision that Judge Southwick joined. Mr. Chairman, in the year 2007, in a State where 37 percent of the residents are African Americans, we need a judge on the Fifth Circuit who recognizes that such a decision had to be overturned.

I am also disturbed by Judge Southwick's role in the child custody case, S.B. v. L.W., and particularly by his joining a stridently antigay opinion concurring in the decision to take a woman's child away from her and give custody to the unmarried father of the child. I found Judge Southwick's explanation of his reasoning in joining this opinion, and his assurances that he harbors no bias against gay Americans, unconvincing. I am simply not convinced by his assurances that he will give all litigants who come before him a fair hearing.

Mr. President, it gives me no pleasure to vote against this nominee. As my colleagues know, I do not start with a predisposition against the President's choices. I have supported well over 200 of the President's judicial nominees. But no one is entitled to a lifetime appointment to our powerful Federal courts, and Judge Southwick has not demonstrated that he is the right nominee for this vacancy. I will vote no.

I ask unanimous consent that letters of opposition and concern from the Congressional Asian Pacific American Caucus, the National Partnership for Women and Families, the California State Conference of the National Association for the Advancement of Colored People, the Congressional Black Caucus, and the NAACP be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, July 25, 2007.

Re Jude Leslie Southwick nomination.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY AND SENATOR SPECTER: On behalf of the Congressional Asian Pacific American Caucus (CAPAC), we write to express our strong opposition to the nomination of Judge Leslie Southwick to the United States Court of Appeals for the Fifth Circuit.

The Southwick nomination fails to address the lack of diversity on Mississippi's federal branch. As you know, the Fifth Circuit presides over the largest percentage of minority residents (44%) of any circuit. Mississippi has the highest African American population (36%) of any state in the country. Yet, out of the seventeen seats on the Fifth Circuit, only one is held by an African-American. Additionally, the Fifth Circuit has issued decisions important to minority communities such as employment discrimination, voting rights and affirmative action. The lack of diversity of the Fifth Circuit, compounded with Judge Southwick's flawed record on race, further exemplifies the unacceptability of Southwick's nomination.

Judge Southwick's record as a judge on the Mississippi State Court of Appeals clearly demonstrates that he is an objectionable nominee for the Fifth Circuit. In the case of Richmond v. Mississippi Department of Human Services, Judge Southwick joined a 5–4 decision that upheld the reinstatement of a white state social worker, Bonnie Richmond, who had been fired for calling an African American co-worker a ''good ole n*****'' at a meeting that included top agency executives. The ruling that Southwick joined was unanimously reversed by the Supreme Court of Mississippi.

CAPAC is furthered disturbed by Judge Southwick's rulings against consumers and workers in divided torts and employment cases and worker rights. In 160 out of 180 published decisions, Judge Southwick votes against the injured party and in favor of business interests, such as corporations or insurance companies.

With the lifetime judicial position at stake, Southwick's record has failed to reflect the values of social justice, fairness and equality in this country. We strongly urge the Judiciary Committee to reject Leslie Southwick's confirmation to the Fifth Circuit.

Sincerely,

MICHAEL M. HONDA,
Chair, CAPAC.

BOBBY SCOTT,
Chair, CAPAC Civil Rights Task Force.

NATIONAL PARTNERSHIP
FOR WOMEN & FAMILINES,
Washington, DC, June 21, 2007.

Re nomination of Leslie Southwick to the U.S. Court of Appeals for the Fifth Circuit.

Hon. PATRICK J. LEAHY,
Chair, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, Senate Judiciary Committee, Hart Building, Washington, DC.

DEAR SENATORS LEAHY AND SPECTER: We write to urge you to reject the nomination of Leslie Southwick for a seat on the United States Court of Appeals for the Fifth Circuit. As an organization committed to protecting and promoting women's rights and eradicating discrimination in the workplace, the National Partnership for Women & Families is troubled by Judge Southwick's record and its implications for rights that are vital to ensuring equal opportunity and access to justice. Judge Southwick's failure to produce significant portions of his record—effectively thwarting the thorough, comprehensive review every federal appellate nomination deserves and demands—only exacerbates these concerns.

INCOMPLETE RECORD

For the committee to consider fairly any nominee for a lifetime appointment to a seat on the federal court of appeals—the court of last resort in the vast majority of cases—the nominee's entire record must be fully reviewed and evaluated. Judge Southwick's failure to produce unpublished opinions in which he participated and joined during his first two years on the Mississippi Court of Appeals makes such review impossible. These gaps in Judge Southwick's record alone should give the committee pause in moving Judge Southwick's nomination forward.

A SETBACK FOR CIVIL RIGHTS

A review of Judge Southwick's record calls into question his commitment to the full enforcement of rights critical to ensuring fair workplaces and access to justice. In *Richmond* v. *Mississippi Department of Human Services*, 1999 Miss. App. LEXIS 468 (Miss. Ct. App. 1999), Richmond, a social worker, was terminated by the Mississippi Department of Human Services for using a derogatory racial epithet. Richmond appealed the decision and was reinstated by the state Employee Appeals Board (EAB). A sharply divided Mississippi Court of Appeals affirmed the EAB ruling. Judge Southwick joined the Court of Appeals's 5–4 decision, which credited Richmond's testimony that ''her remark was not motivated out of racial hatred or animosity directed toward her co-worker or toward blacks in general.'' The Mississippi Supreme Court was unanimous in reversing the Court of Appeals, holding instead that the EAB should either impose some penalty on Richmond or make detailed findings why no penalty should be imposed. *Richmond* v. *Mississippi Department of Human Services*, 778 So. 2d 113, 114 (Miss. 2000). Three justices would have gone further by reversing the EAB' s reinstatement decision and upholding Richmond's termination.

Judge Southwick's decision to join the majority in this case is deeply troubling. The EAB's written decision is limited and provides little explanation of its reasoning. The primary record about the incident at issue consists of the hearing officer's findings. The hearing officer found that the racial epithet used by Richmond—referring to an employee as a ''good ole n*****''—was once considered ''derogatory,'' but was no longer evidence of racial discrimination. Instead, he characterized the phrase as akin to calling someone a ''teacher's pet,'' ''chubby,'' or ''slim.'' These statements indicate a failure to take this incident seriously and are wildly out of touch with the deeply offensive and charged nature of racial slurs. The hearing officer's findings should have raised a red flag, particularly in light of the diversity of the agency where Richmond worked, where more than half of the employees were African American, and the undoubtedly very diverse client base the agency served—all factors that further heightened the need for sensitivity to issues of race.

Although Judge Southwick's ability to alter the outcome in this case may have been constrained by the posture of the case and the deferential standard of review, he still had every opportunity to object to the use of the epithet and demand a fuller explanation of why Richmond was reinstated by writing a separate concurring opinion or working with the authoring judge to modify the opinion. Judge Southwick did neither of these things. That the dissenting judges on his own court and each of the justices on the Mississippi Supreme Court recognized the gravity of this incident while Judge Southwick did not makes plain that Judge Southwick is out of step with his peers on issues of racial justice. If the opinion Judge Southwick joined had been the final word in this case, Richmond would have been reinstated without any discipline and would have faced no consequences for using a horrible racial slur. Moreover, the underlying record and the questionable assessment of the hearing officer would have been left unrebutted, perhaps influencing the outcome of future cases. Judge Southwick's deference to the decision of the EAB despite the suspect findings on which that decision was based calls into question his ability to apply the law to ensure that workplaces in the Fifth Circuit—

the circuit with the largest minority population—are free of discrimination.

Judge Southwick displayed similar insensitivity to the rights of minorities in *S.B.* v. *L.W.*, 793 So. 2d 656 (Miss. Ct. App. 2001), a case in which the Mississippi Court of Appeals granted custody of a child to the child's father based on a number of factors, including the mother's sexual orientation. Not content simply to review the lower court's application of the custody standard and explain why the application was or was not correct, Justice Southwick joined a separate opinion to emphasize the immorality of the mother's ''choice'' to engage in a ''homosexual lifestyle.'' His decision to join an opinion that injected personal views and divisive rhetoric into the legal analysis raises concerns about whether he will apply the law without prejudice to all who may come before him as a judge on the Fifth Circuit Court of Appeals.

HURDLES FOR INJURED PARTIES

Judge Southwick's ability to apply the law fairly is also called into question by his lopsided record favoring business interests over individuals and his tendency to deny plaintiffs their right to have their cases decided by a jury of their peers. According to published reports, Judge Southwick voted, in whole or in part, against the injured party and in favor of the defendant, in 160 out of 180 non-unanimous published decisions involving state employment and tort law. In a troubling number of cases, Judge Southwick voted to prevent an injured party's case from being heard by a jury based on cramped legal interpretations that erect unreasonable barriers to pursuing one's day in court. See, e.g., *Cannon* v. *Mid-South X-Ray Co.*, 738 So. 2d 274 (Miss. Ct. App. 1999).

CURTAILING CIVIL RIGHTS PROTECTIONS

Finally, Judge Southwick's view of the ''federalism revival'' raises doubts about his commitment to civil rights laws that have been essential to advancing equal employment opportunities. In a 2003 article, Judge Southwick indicated that he approved of the Supreme Court's recent limitations on Congress's ability to pass civil rights legislation under its commerce power, and on Congress's power to abrogate state immunity and allow state employees to sue to vindicate their rights under federal law. See Judge Leslie Southwick, Separation of Powers at the State Level: Interpretations and Challenges in Mississippi, 72 Miss. L. J. 927 (2003). This narrow view of Congress's authority to combat and remedy domestic violence and workplace discrimination raises significant concerns for those who have looked to Congress to ensure that crucial rights and protections extend to every American.

CONCLUSION

It is critical to ensure that judges elevated to the federal appellate bench inspire confidence that the law is being administered fairly, consistently, and without bias. Because of the concerns outlined above, we urge the committee to reject Judge Southwick's nomination.

Sincerely,

DEBRA NESS,
President.

CALIFORNIA STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,

Sacramento, CA, June 13, 2007.

Re California State Conference of the NAACP opposition to the nomination of Lesley Southwick to the 5th Circuit U.S. Court of Appeals.

Senator PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR: The California State Conference of the National Association for the Advancement of Colored People (NAACP), our nation's oldest, largest and most widely recognized grassroots civil rights organizer for stands in strong opposition to the nomination of Lesley Southwick to the U.S. Court of Appeals for the 5th Circuit. After thoughtful review and careful analysis of Judge Southwick's record, it is clear that Judge Southwick has a disdain for civil rights, evidenced by a substantial sentencing disparity on the basis of ethnic identity where African Americans are overwhelmingly incarcerated. It is equally important to note that the 5th Circuit, which covers Louisiana, Mississippi and Texas, has the highest concentration of racial and ethnic minorities in the country.

Judge Southwick's record as a jurist on the Mississippi State Court of Appeals clearly demonstrates that he is an inappropriate nominee for the U.S. Court of Appeals for the 5th Circuit. In the case of *Richmond* v. *Mississippi Department of Human Services*, 1998 Miss. App. LEXIS 637 (Miss. Ct. App. 1998), reversed, 745 So. 2d 254 (Miss. 1999). Judge Southwick joined a 5–4 ruling upholding the reinstatement of a white state social worker, Bonnie Richmond, who had been fired for referring to an African American co-worker as ''a good ole nigger'' at an employment-related conference. Richmond worked for the Mississippi Department of Human Services (''DHS''), which terminated her employment after other employees raised concerns about her use of the racial slur. The ruling that Southwick joined was unanimously reversed by the Supreme Court of Mississippi.

The California State Conference of the NAACP is further disturbed by Judge Southwick's rulings on race discrimination in jury selection. His rulings demonstrate a clear lack of support for or even understanding of the basis for civil rights for African Americans in the American legal system. Dozens of cases in this area reveal a pattern in which Judge Southwick rejected the claims that the prosecution was racially motivated in striking African American jurors while upholding claims that the defense struck white jurors on the basis of their race. In Bumphis v. State, and appellate colleague accused Judge Southwick of ''establishing one level of obligation for the State, and a higher one for defendants on an identical issue.''

The 5th Circuit Court of Appeals has a history of protecting and even promoting the civil rights of the racial and ethnic minorities living within its jurisdiction. The current court, however, does not appear to be following this trend; indeed they appear more interested in curbing civil rights and retarding civil liberties. Given Judge Southwick's record, we believe he would only perpetuate this discriminatory trend if he were confirmed. Therefore the California State Conference of the NAACP must oppose Judge Southwick's nomination to the 5th Circuit Court of Appeals and urge you to do the same when his nomination is considered by the Senate Judiciary Committee.

On behalf of the California State Conference of the NAACP, I want to thank the Senate Judiciary Committee for its consideration of our letter of opposition to the Southwick nomination. Should you have any questions, please do not hesitate to contact me.

Sincerely,

ALICE A. HUFFMAN,
President.

CONGRESSIONAL BLACK CAUCUS OF THE 110TH UNITED STATES CONGRESS,

Washington, DC, May 24, 2007.

Hon. GEORGE W. BUSH,
President, United States of America, The White House, Washington, DC.

MR. PRESIDENT: On behalf of the nearly forty million Americans we represent, including those in Louisiana, Mississippi and your home state of Texas, we urge you to withdraw the nomination on Leslie Southwick to the U.S. Court of Appeals, Fifth Circuit. To say that our opposition to Mr. Southwick is strong and unequivocal would be an understatement.

As you know, the Fifth Circuit presides over the largest percentage of minority residents (44%) of any circuit. It has issued seminal decisions on voting rights, affirmative action, employment discrimination, discriminatory jury selection, and the death penalty.

The Southwick nomination fails to remedy the egregious problem with the lack of diversity on Mississippi's federal bench. It bears noting that Mississippi has the highest African-American population (36%) of any state in the country. Yet, you have nominated ten individuals to the federal bench in Mississippi, none of whom has been African-American. While you have nominated three individuals to the Fifth Circuit, none of them has been approved. The Southwick nomination would compound the absence of diversity with a nominee with an unacceptable record on race.

Please consider Mr. Southwick's judicial record in the following cases:

In *Richmond* v. *MS Dep't of Human Services*, 1998 Miss. App. LEXIS 637 (Miss. App. Ct. 1998), Southwick joined a decision reinstating the job of a white employee who had used the word ''nigger'' toward an African-American coworker.

At an employment related conference, the white employee had called the black employee ''a good ole nigger,'' and then used the very same term toward the employee the next day back at the office. The white employee was fired.

The opinion joined by Southwick was reversed by the Mississippi Supreme Court. 745 So. 2d 254 (Miss. 1999). No one on the Supreme Court thought that the ruling of Southwick's court was correct. They reversed and remanded the case on the nature of the penalty or to make detailed findings on the record why no penalty should be imposed. Some members of the Supreme Court would not only have reversed, but would have reinstated the judgment of the Circuit Court upholding the termination.

In *Brock* v. *Mississippi*, No. 94–LA–00634 (Miss. App. Ct. Dec. 2, 1997), Southwick authored an opinion upholding a conviction where the defendant had challenged the prosecution's strike of an African-American juror.

The prosecution had responded by stating that the juror was struck because he lived in a high crime area.

Southwick held that ''striking a juror based upon residency in a high crime area is a race neutral explanation.'' Another Court of Appeals judge disagreed with such a broad holding: ''While [another state] has adopted the position that being a resident of a high crime area is automatically a race neutral reason to strike a potential juror, I am not

prepared to do so. Given existing housing patterns and common sense, there are generally, common racial characteristics shared by persons, who reside in so-called high crime areas. To accept without reservation, a strike which on its face, appears geared toward a racially identifiable group, has the potential for great mischief.'' (King, J., concurring in result).

It is clear from this record that Mr. Southwick is not properly suited to serve on the Fifth Circuit. In 160 out of 180 published decisions on state employment law or torts in which one judge dissented, Southwick voted in favor of the corporate defendant, in whole or in part.

Mr. Southwick's intolerant racial views and his fixed right-wing worldview make support for him a vote against everything the CBC and African-Americans are striving for in 2007. Your continued support of Mr. Southwick would make a bad Fifth Circuit problem worse. We trust that your reconsideration of this nomination will result in a fairer Fifth Circuit that is truly representative of the diverse populations served by the Circuit.

Sincerely,

CAROLYN CHEEKS KILPATRICK,
Chair, Congressional Black Caucus.
BENNIE THOMPSON,
Member, Congressional Black Caucus.

WASHINGTON BUREAU, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, August 1, 2007.

Re NAACP reiteration of strong opposition to the nomination of Lesley Southwick to the 5th Circuit U.S. Court of Appeals.

MEMBERS,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATORS; On behalf of the National Association for the Advancement of Colored People (NAACP), our nation's oldest, largest and most widely-recognized grassroots civil rights organization, I am writing to reiterate our organization's strong opposition to the nomination of Lesley Southwick to the U.S. Court of Appeals for the 5th Circuit. Our opposition comes after a careful and thorough review of Judge Southwick's record, and our resulting dismay with his dismal record on civil rights. Our opposition to his nomination is amplified by the fact that the 5th Circuit, which covers Louisiana, Mississippi and Texas has the highest concentration of racial and ethnic minority Americans in our country.

Judge Southwick's record as a judge on the Mississippi State Court of Appeals clearly demonstrates that he is an inappropriate nominee for the U.S. Court of Appeals for the 5th Circuit. In the case of *Richmond* v. *Mississippi Department of Human Services*, 1998 Miss. App. LEXIS 637 (Miss. Ct. App. 1998), reversed, 745 So. 2d 254 (Miss. 1999), Judge Southwick joined a 5–4 ruling upholding the reinstatement of a white state social worker, Bonnie Richmond, who had been fired for referring to an African American co-worker as ''a good ole nigger'' at an employment-related conference. Richmond worked for the Mississippi Department of Human Services (''DHS''), which terminated her employment after other employees raised concerns about her use of the racial slur. The ruling that Southwick joined was unanimously reversed by the Supreme Court of Mississippi.

The NAACP is further disturbed by Judge Southwick's rulings on race discrimination in jury selection. They demonstrate a clear lack of support for, or even understanding of the basic civil rights of African Americans in the American legal system. Dozens of cases in this area reveal a pattern in which Judge Southwick rejected the claims that the prosecution was racially motivated in striking African American jurors while upholding claims that the defense struck white jurors on the basis of their race. In Bumphis v. State, an appellate colleague accused Judge Southwick of ''establishing one level of obligation for the State, and a higher one for defendants on an identical issue.''

The 5th Circuit Court of Appeals has a history of protecting and even promoting the civil rights of the racial and ethnic minorities living within its jurisdiction. The current court, however, does not appear to be following this trend; indeed they appear more interested in curbing civil rights and retarding civil liberties. Given Judge Southwick's record, we believe he would only perpetuate this sad trend if he were confirmed. Thus, the NAACP must oppose Judge Southwick's nomination to the 5th Circuit Court of Appeals and urge you to do the same when his nomination is considered by the Senate Judiciary Committee.

Finally, given Mississippi's long history of racial apartheid, disenfranchisement, interposition, nullification and massive resistance, it is unfathomable that President Bush has not nominated a single African American to serve on the Court of Appeals for the 5th Circuit or any of the district courts during his tenure in office. This is especially mind-boggling, given that 37% of Mississippi's population is African American, the highest percentage of all 50 states. While it certainly is the President's prerogative to nominate the individuals of his choice to the federal judiciary, and while the NAACP does not advocate the nomination of unqualified individuals simply because of the color of his or her skin, we unequivocally reject the notion that there are no qualified African Americans to fill this vacancy on the 5th Circuit. Lesley Southwick's nomination continues a stark pattern of racial discrimination and racial exclusion in appointments by President Bush in a state and a region that continues to need integration. The Senate Judiciary Committee must defeat Lesley Southwick's nomination based on his clear lack of qualifications and merit. This will provide President Bush with the opportunity to nominate a well-qualified racial or ethnic minority individual with the appropriate judicial temperament to dispense justice as intended by our Constitution.

Thank you in advance for your attention to the NAACP's strong opposition to the Southwick nomination. Please do not hesitate to contact me if there is any more information I can provide you on our position, or if you have any questions or comments.

Sincerely,

HILARY O. SHELTON,
Director.

Mr. LEVIN. Mr. President, I will oppose the nomination of Leslie Southwick to the Fifth Circuit Court of Appeals because I have serious questions about his ability to be an impartial jurist.

I am concerned that Judge Southwick's views of racial discrimination in jury selection reflect a lack of adequate respect for Supreme Court precedent. In Batson v. Kentucky, the Supreme Court ruled against preemptory dismissal of jurors without stating a valid cause for doing so may not be used to exclude jurors based solely on their race.

The contrast between Judge Southwick's votes in jury challenge cases is particularly troubling. In the majority of cases where African-American defendants have challenged their convictions on the ground that the prosecution used peremptory challenges to strike African-American jurors, Judge Southwick voted against the defendant's challenge. Further, in the majority of cases where African-American defendants challenged their convictions on the ground that the prosecution had unfairly prevented them from using their peremptory challenges to exclude White—or in one case Asian American—jurors, the defendants, with Judge Southwick joining the majority, lost the challenges.

There is other evidence of racial insensitivity that concerns me. In Richmond v. Mississippi Department of Human Services, Judge Southwick joined a 5–4 ruling upholding the reinstatement of a White State social worker who had been fired for referring to an African-American co-worker as a ''good ole n*****'' during a meeting with high level company officials. After she was fired, Richmond appealed her termination to the State Employee Appeals Board, EAB, which ordered her reinstatement. The hearing officer opined that Richmond's use of the racial slur ''was in effect calling the individual a 'teacher's pet.'''' On appeal, Judge Southwick joined a majority that held that the use of the racial slur was ''not motivated out of racial hatred or animosity directed at her co-worker or toward blacks in general, but was, rather, intended to be a shorthand description of her perception of the relationship existing between the [co-]worker and [a] DHS supervisor.''

In dissent, two judges criticized the hearing officer and majority opinion for having a ''sanitized version'' of the facts and for suggesting that ''absent evidence of a near race riot, the remark is too inconsequential to serve as a basis of dismissal.'' The dissent found that the racial epithet of ''n*****'' is ''inherently offensive, and [its] use establishes the intent to offend.''

The ruling Judge Southwick joined was unanimously reversed and remanded on appeal by the Mississippi Supreme Court.

Further, in Brock v. Mississippi, a case which upheld a criminal conviction where the prosecution used a preemptory challenge against an African-American juror purportedly because he lived in a high crime area, the dissenting judge criticized Judge Southwick's opinion for accepting the action of the prosecutor, which, ''on its face appears geared toward a racially identifiable group.''

Some have tried to make the point that Judge Southwick did not write most of these opinions; rather that he merely signed on to them. If Judge Southwick did not agree with those opinions, he could have dissented. If he agreed with the holding but not the reasoning, he could have written a separate concurrence. To the contrary, he simply voted with the majority and supported their opinions.

Because I do not believe that his record reflects the objectivity and even-handedness necessary to serve in a lifetime appointment on the Federal bench, I cannot vote to confirm his nomination.

Mr. COBURN. Mr. President, today the Senate has a golden opportunity to take a big stride forward in working its way out of this judicial nomination mess we are in. At some point we as a body are going to have to take partisanship out of this judicial nomination process if we hope to continue to attract great candidates to the Federal bench. We have seen other great nominees withdraw because of the stress and difficulty of this process. Fortunately, Judge Southwick has stood firm so that the Senate has a chance to confirm him.

Leslie Southwick is an Iraq veteran and has already demonstrated that he is a great jurist. From the testimonials of people in Mississippi, regardless of political or cultural differences, he is fairminded, not biased, and is an outstanding pick for this seat.

It is incredible to observe the vitriolic opposition to this nomination that is built wholly on two written opinions in question that Judge Southwick did not even write. How can the Senate seriously say that those two opinions, in a vacuum, show that Judge Southwick is racist or insensitive to minority litigants? The support from African-Americans in Mississippi exposes that the opposition is politically motivated.

The Senate and the Judiciary Committee must step away from the politically based litmus tests that currently control the nominations process. We must also stop focusing purely on the results of cases, without any context to the facts and law at issue, as the sole indicator of a nominee's judicial philosophy.

I ask my colleagues to seriously reconsider our current course and let Judge Southwick have a fair up-or-down vote.

When we are reviewing judicial nominees, we should ask ourselves three questions:

First, does the nominee have the basic qualifications to be a good judge?

In this case, the answer is yes. The American Bar Association twice rated Judge Southwick ''well qualified,'' with the ABA actually increasing their rating to ''unanimously well qualified'' when he was nominated to the Fifth Circuit vacancy.

Second, does the nominee possess the appropriate judicial temperament so that every litigant will be treated fairly when they come before this nominee?

The answer again is yes. If you read the many letters from lawyers and judges in the Mississippi legal community, they clearly believe litigants are treated fairly and impartially before Judge Southwick.

Third, does the nominee respect the proper constitutional role of a judge to not create law from the bench?

Again the answer is yes. The record clearly demonstrates that Judge Southwick is and will be a restrained jurist.

As Congress we should be thrilled when a judge shows that he will be restrained in his rulings from the bench. We write the laws, and we should be grateful that a judge knows he is not a Member of Congress and will defer to us in the task of writing law.

Again, I ask my colleagues to move beyond petty partisanship with quality nominees like Judge Southwick, and let's give him a vote.

I yield the floor.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. There remain 27 minutes, including leadership time.

Mr. SPECTER. Is that 27 minutes on the Republican side?

The PRESIDING OFFICER. Correct.

Mr. SPECTER. How much on the Democratic side?

The PRESIDING OFFICER. Twenty minutes.

Mr. SPECTER. I thank the Chair.

Might I inquire of the senior Senator from Mississippi how much time he would like?

Mr. COCHRAN. Mr. President, I would be happy to speak for up to 10 minutes.

Mr. SPECTER. I yield 10 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, it is very difficult to listen to the criticism of those who have not known Leslie Southwick in the context and with the experiences of those, obviously, who have worked with him, observed him in close range as a fellow lawyer, seen him take positions of public support for candidates who were running for office in Mississippi, being active in our Republican Party in Mississippi; being admired widely by all who have come to know him, practicing law with him, observing him as a lecturer at the Mississippi College School of Law, observing him serving voluntarily as an officer in the Mississippi National Guard, the U.S. Army Reserves, being deployed to Iraq, volunteering for duty to serve as a judge advocate, and accompanying Mississippi soldiers who were deployed to that region in time of war.

He didn't have to do that. He is way beyond the age of most of those who were engaged in that operation and in that responsibility to protect the security interests of our country.

It is so inconsistent—all of that—to those of us who know this nominee compared with the harsh, shrill pronouncements being made on this floor of the U.S. Senate by leaders of the opposition to this nomination. I am not going to criticize their right to disagree with those of us who support Judge Southwick, but I do want to point out that I hope Senators will look at the record that has been accumulated in the Senate as a result of statements made by Senator LOTT, me, and others who have known Judge Southwick and others who are the most respectable and trustworthy people in our State and Nation who have a totally different view of him as a person and of his record as an appellate judge, as a lawyer, and as a professor of law.

I hope Senators will take a look at who is saying what and base a judgment on this nomination on the things that have been said and the information that has been made available to the Senate from those who have spent time with Judge Southwick, who know him, or whether that will be outweighed by the harsh and shrill blandishments and criticisms and hyperbole and exaggerations and inaccuracies in the description of this person as a lawyer, as an individual, as a citizen who is here being subjected to totally unfounded criticism.

I hope those words aren't too harsh. I believe they are just as true and accurate as can be. And it would be a disgrace on this body to block the confirmation, to vote against invoking cloture which, in effect, would kill the nomination. We are going to vote on whether to invoke cloture. It will take 60 votes to shut off debate so we can get to a vote on the confirmation.

I have spoken on the floor on two or three occasions on this subject, back in June, I think, the first time. I have been reading the RECORD and looking at what I said July 19, 2007. I included after my remarks letters that I had received and that the committee had received from lawyers, judges, and acquaintances of Leslie Southwick over the past 30 years of his life. I am not going to burden the RECORD by putting all those letters in or reading them or reading excerpts from them, but these are some of the finest people, and some of them are liberal Democrats. Some of them are active today as elected officials in our State. Others are just fellow lawyers, people who have worked with him closely, a State supreme court justice. Former Gov. William Winter is an example.

This morning, I found on my desk in my office when I came to work a letter that had been faxed to me, I guess, this morning. At 9:01 a.m. it was received in my office. It is from the Secretary of State of Mississippi, Eric Clark. And because this is a new letter, I think I will read it. It is actually addressed to me and Senator LOTT:

Dear Senator Cochran and Senator Lott:

I sat at home last night and listened on C–SPAN to the debate on Judge Leslie Southwick, and I feel compelled to write you this letter.

I am the senior Democratic elected official in Mississippi. I have been elected to office eight times as a Democrat. I am retiring from politics in January, so I have no ax to grind by commenting on this debate. During my entire career in public service, I have aggressively promoted the inclusion of all Mississippians, and particularly African-Americans, at the decision-making table in Mississippi. I take a back seat to no one in promoting inclusion in our state.

It has been my pleasure to know Leslie Southwick for more than twenty years. If I had to name one person who is kind, fair, smart, thoughtful, and open-minded, it would be Leslie Southwick. For any Senators who have been told or who have concluded otherwise, that is wrong—as wrong as it can be.

We in Mississippi are quite accustomed to being the objects of negative stereotyping. Of course, it is much easier to believe a stereotype about someone than to make the effort to get to know that person. It is perfectly clear to me that this is what is happening to Judge Southwick.

It seems to me that what is being decided in this case is not whether Leslie Southwick would be a good and fair judge—we could not have a better or fairer one. What is being decided, I think, is whether the United States Senate considers judicial nominees based on truth and merit, or based on politics and partisanship.

Let me make my point as plainly as I can: Leslie Southwick is the polar opposite of an ignorant and bigoted judge—the polar opposite of that stereotype. I hope that the Senate passes the test of recognizing the truth and acting accordingly.

Thank you. Sincerely, Eric Clark, Secretary of State of Mississippi.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COCHRAN. I yield the floor.

Mr. SPECTER. Mr. President, how much time remains on the Republican side?

The PRESIDING OFFICER. There is 16½ minutes remaining, including the leadership time.

Mr. SPECTER. I see the distinguished Senator from Mississippi, Mr. LOTT, on the Senate floor. How much time would Senator LOTT like?

Mr. LOTT. Just a couple minutes.

Mr. SPECTER. Senator LOTT can have as much time as he wants. It sounds as if he wants 5 minutes. I yield to Senator LOTT.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I don't want to repeat everything that has been said. I was going to read this letter from our secretary of state, Eric Clark. My senior colleague just read it, and I am glad he did. I appreciate how he feels.

I do feel hurt in some ways by what has happened in this particular case. This is a good and honorable man, qualified by education, by experience, by temperament. He deserves to have an up-or-down vote. We should vote for cloture, and then we should have an up-or-down vote on this judge for a position that is a judicial emergency for the Fifth Circuit Court of Appeals, which is a very broad-based circuit court of appeals. He will be a fine addition to that court.

I want to end on a positive note because Judge Southwick has waited a long time, has been open and available to anybody who was willing to meet with him, not just the Judiciary Committee members but others, including House Members.

We are here because Senator DIANNE FEINSTEIN showed unbelievable courage by voting to report this nominee out of the Judiciary Committee after very careful analysis, looking at the cases, meeting with the nominee. I will always be indebted to her and appreciative of what she did.

I have to acknowledge that the Judiciary Committee, in this case led by the very aggressive support of Senator SPECTER, has done its job, and has done it well, and we have reached a point of final determination.

I also thank the majority leader and the Republican leader for working together to find time to make this happen. I know from experience, majority leaders do not have to allow votes such as this to occur, and I suspect the majority leader has been criticized for it.

I do believe that this is a moment in time—I hope it is not fleeting—where we can return to some modicum, some small amount of bipartisanship, nonpartisanship, and civility. I think Senator REID, Senator MCCONNELL, Senator FEINSTEIN, and Senator SPECTER have made the right steps to make that possible.

I urge my colleagues to vote for cloture and vote for this nominee. He will be a credit to the court on which he will serve, the Fifth Circuit Court of Appeals. He will exhibit the character and the positions that I believe the people in the Senate will think are appropriate for the rest of his life.

I believe confirmation of this judge will reflect well on the Senate and will pay dividends in many ways not visible at this moment.

I thank Senator SPECTER for yielding this time.

I yield the floor.

Mr. SPECTER. How much time remains, Mr. President?

The PRESIDING OFFICER. There is 12½ minutes remaining.

Mr. SPECTER. Mr. President, we only have the Senators from Mississippi and myself on the floor. For any other Republicans who wish to speak, now would be a good time to come to the floor. I know our leader, Senator MCCONNELL, will be speaking shortly, at 10:40 a.m., but there is still 11 minutes remaining.

I yield 10 minutes to the distinguished Senator from Florida, Mr. MARTINEZ.

Mr. President, that will take us right up to 10:40 a.m., at which time it is my understanding there is an order for the two leaders to speak. I yield 10 minutes now to Senator MARTINEZ.

The PRESIDING OFFICER. Without objection, the Senator from Florida is recognized for 10 minutes.

Mr. MARTINEZ. Mr. President, I thank the Senator from Pennsylvania. I am very pleased to speak on behalf of a good man to occupy a very important position. The Fifth Circuit is a very important court. I want to talk about this nomination as a person who practiced law for a quarter of a century. Twenty-five years of my life I spent in courtrooms in Florida. As a result of that experience, I have a great and abiding respect for our judicial system and for what it does for people to reasonably and in an orderly way settle disputes, and also for those who run afoul of the law to be brought through a justice system that is fair, that is just, and that works for all Americans.

At the pinnacle of all that, at the very centerpiece of the judicial system that functions is the judiciary. And in the judiciary, we need to have the best. We need to have people of dedication. We need to have people of competence and people with impeccable credentials. That is the kind of judge Judge Southwick is and the kind of person he will make as a judge on the Fifth Circuit.

I wish to talk about the process. It is a process that has become much too poisoned. It has become much too divisive and increasingly hostile. What occurs then is that between the inadequate salaries judges in the Federal judiciary now make in comparison to what they could easily be making in the private sector, as well as the difficult gauntlet they must run in order to be confirmed and to then have the opportunity of serving their Nation as a member of the judiciary, I do believe it is very important that judicial candidates be given a fair and timely hearing, that they be given fair and timely consideration.

I believe all too often we allow dissident groups to gain our attention, not mine but some of those who do pay attention to the outside noise when it comes to judicial candidates. I don't believe it is appropriate that we should allow for outside influences to steer us in different directions that become more and more divisive.

When it comes to judicial candidates, we ought to look for qualifications. We ought to look for experience. We ought to look for those things we could consider. I always think, is this the kind of judge I would like to try a case in front of, is this the kind of judge I would like to take my clients' affairs in front of to have a fair, impartial, and reasoned disposition of the matter I bring before the judge? If he or she is that kind of person, they should be given confirmation. To allow outside and distracting political debates to be a part of the confirmation process is simply wrong.

I was pleased when Chief Justice Roberts was going through the process and he used language in his confirmation hearing that ought to ring true with all of us. He said he viewed his role as a judge as that of an umpire. He viewed his role as someone who could come into the courtroom and call it as he sees it, call balls and strikes. For the vast majority of what a judge does, that is what it is about. It is about calling balls and strikes. It is not about pitching. It is not about catching, not about hitting. It is about calling balls and strikes. That is the role of the judge. That is the role of the judiciary. We honor that role when we accept a judicial candidate who is otherwise qualified, who has an impeccable record. I used to be called from

time to time by the ABA committee, the American Bar Association, that looks at candidates and they would ask: What kind of judge would he make? Would he have the right judicial temperament? These are the things we want to know. Is he knowledgeable of the law? Would he be a fair and impartial judge? Does he have the ethical considerations to be the kind of person who is going to set higher standards for those on the bar, who is going to be the kind of person society will accept when he makes a difficult ruling that sometimes has to come from the court?

It is with great pleasure that I support this nominee. I hope my colleagues will do so as well. It is important we restore a certain normalcy to the confirmation process. I say this fully understanding that in about a year and some months, there could very well be someone of a different party who has a very different philosophy about who should be on the bench than the current President. At that time, I will be prepared to live by the standard I have laid out today, which is a standard of qualifications, a standard that puts aside political considerations, a standard that looks at a judicial nominee, as we have done for most of the history of our country. The departure we have had over the last several years is not a healthy one. It is not positive for the judicial system and for the admission of justice. This is a standard I will be prepared to live with, even if someone from a different party than mine is making judicial nominations. I will look to their qualifications, experience, ethical standing. Is this the kind of judge I would have been happy to have my client take matters before.

I would expect a fair and impartial judge to make a learned and reasonable decision based on the facts, the evidence, and the law. That is what judges are about, analyzing facts and law and making a judicial determination of how to rule in a given case. It is not about politics that more belong in a body such as ours and not on the bench.

How much time remains?

The PRESIDING OFFICER. There remains 5½ minutes before leadership time.

Mr. MARTINEZ. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. I ask unanimous consent that the order for the quorum call be rescinded.

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

The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, shortly we will have an extremely important vote in terms of our ability to deal with judicial confirmations in the future. There has been widespread bipartisan concern that the confirmation process has descended to a point with which most of the Members on both sides of the aisle are uncomfortable. We will have an interesting test shortly as to whether the Senate can use cloture not to defeat a judge but to move a nomination forward. That is the way it has been done in the past. We have had controversial judicial nominations from time to time over the years, controversial with a few but not all of the Senate. The way cloture was used in those situations was to advance a nomination, not to stop it. I am reminded when Senator LOTT was the majority leader, there were a couple of controversial nominations from California. His view was they were entitled to an up-or-down vote. We invoked cloture on the nomination. I remember voting for cloture because I believed judges were entitled to an up-or-down vote and then not supporting the judge on final passage.

We have before us the nomination of a Mississippi lawyer named Leslie Southwick. He wanted to serve his country in the Armed Forces. At 42, he was too old to do so. But service to others is a duty Leslie Southwick has always taken very seriously, whether in the Justice Department or on the State bench or with Habitat for Humanity or in doing charity work for inner-city communities. So in 1992, 42-year-old Leslie Southwick sought an age waiver to join the U.S. Army Reserves. The country had the good sense and the good fortune to grant this request.

Leslie Southwick continued to serve in the Armed Forces after he was elected to the State court of appeals in 1994. He conscientiously performed his military and judicial duties, even using his vacation time from the court to satisfy the required service period in the Mississippi National Guard.

In 2003, LTC Southwick volunteered for a line combat unit, the 155th Separate Armor Brigade. His commanding officer, MG Harold A. Cross, notes that his decision ''was a courageous move; as it was widely known at the time that the 155th was nearly certain to mobilize for overseas duty in the near future.'' Colleagues such as attorney Brian Montague were not surprised. ''Despite the love of wife and children,'' Leslie Southwick volunteered for a line combat unit over a safer one ''because of a commitment to service to country above self-interest.''

In August of 2004, Leslie Southwick's unit mobilized in support of Operation Iraqi Freedom. His commanding officer states he distinguished himself at forward bases near Najaf. Another officer, LTC Norman Gene Hortman, Jr., described Leslie Southwick's service in Iraq as follows:

> Service in a combat zone is stressful and challenging, often times bringing out the best or the worst in a person. Leslie Southwick endured mortar and rocket attacks, travel through areas plagued with IEDs, extremes in temperature, harsh living conditions . . .—the typical stuff of Iraq. He shouldered a heavy load of regular JAG Officer duties which he performed excellently. He also took on the task of handling the claims of numerous Iraqi civilians who had been injured or had property losses due to accidents involving the U.S. military . . .
>
> Leslie always listened to these Iraqi claimants patiently and treated them with the utmost respect and kindness. He did this not just out of a sense of duty but because he is a genuinely good and caring person. His attitude left a very positive impression on all those that Leslie came in contact with, especially Iraqi civilians he helped. This in turn helped ease tensions in our unit's area of operations . . . and ultimately, saved American lives.

Lieutenant Colonel Hortman concludes that Leslie Southwick ''has the right stuff''—the right stuff—for the Fifth Circuit Court of Appeals: ''profound intelligence, good judgment, broad experience, and an unblemished reputation.'' He adds:

> I know him and can say these things without reservation. Anyone who says otherwise simply does not know him.

Stuart Taylor writes in the National Journal that Leslie Southwick ''wears a distinctive badge of courageous service to his country,'' and that he ''is a professionally well-qualified and personally admirable'' nominee to the Fifth Circuit.

Judge Southwick does not seek thanks or notoriety or charity for his military and other civic service. He asks to be judged fairly—to be judged on the facts, to be judged on his record. It is the same standard he has applied to others as a judge, a military officer, and a teacher. It is a standard for which he is well known and admired. By that standard, he is superbly fit to continue serving his country, this time on the Fifth Circuit. Senators COCHRAN and LOTT, his home State Senators, know this. They are strongly behind him. As everyone knows, his peers on the State bar know this. They honored him as one of the State's finest jurists, saying he is ''an example of judicial excellence; a leader in advancing the quality and integrity of justice; and a person of high ideals, character and integrity.''

The American Bar Association knows this. It has twice given him its highest rating: ''well-qualified.'' In doing so, the ABA found him to be exemplary in the areas of ''compassion,'' ''open-mindedness,'' ''freedom from bias and commitment to equal justice under law.''

Democrats on the Judiciary Committee knew this too. Last fall all of them—every single one—looked at his record and approved him for a lifetime position to the district court. Congress adjourned before he could be confirmed, and Judge Southwick was renominated to fill a judicial emergency on the Fifth Circuit. Two things then occurred. First, the ABA increased his rating—increased his rating—from ''well-qualified'' to ''unanimously well-qualified.'' In other words, not a single person on the ABA committee found him anything other than the most qualified nominee possible. Second, in August, the committee favorably reported his nomination to the floor with bipartisan support.

Unfortunately, some of our colleagues on the other side who had supported his nomination to the Federal bench last fall seem to have changed their mind. Since there is no material change in Judge Southwick's credentials other than the ABA actually giving him an even higher rating for the circuit bench than they gave him for the district bench, the sudden change is indeed puzzling.

Critics now point to two cases out of 7,000, neither of which Judge Southwick wrote, and both of which existed when the committee unanimously approved him last fall. One of our colleagues even asserts that because these two cases create a perception among some outside groups about potential unfairness, this ''perceived fairness'' standard should determine our vote on Judge Southwick.

That is a standard I would say I would hate to have applied to nominations by a Democratic President by Republican Senators. And remember, we are setting a standard here that will apply not only to this nomination but to other nominations in the future.

The notion that mere perception, not reality, should determine whether someone is confirmed is troubling, to say the least. We expect the judges we confirm to rule based on the facts. We should not judge their fitness for office based on perception rather than the facts. In the case of Judge Southwick, the sudden ''perception'' about his fairness is driven by those who do not even know him, and it is amply disproven by his long record and by those who know him very well.

But more broadly, if we start opposing well-qualified nominees because outside groups have manufactured an unfair perception of them, then we will have established a precedent that will affect us all, as I indicated a minute ago, and for the worse—regardless of who is in the White House and which home State Senators support a nomination. Is the standard going to be around here the perception created by some outside group? I think that is a standard that would be very dangerous, no matter who is in the White House.

I urge my colleagues not to undo the good work and goodwill that brought us back from the precipice we had almost descended into a few years ago on judicial confirmations. I urge them to think hard about the ramifications of their vote for the future, and to vote for cloture on the Southwick nomination.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that letters of opposition and concern from numerous organizations regarding the nomination now before the Senate be printed in the RECORD.

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

NATIONAL FAIR HOUSING ALLIANCE,
Washington, DC, June 6, 2007.

Hon. PATRICK LEAHY,
Chairman, U.S. Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN LEAHY: The National Fair Housing Alliance (NFHA) is strongly opposed to the nomination of Leslie Southwick to the Fifth Circuit Court of Appeals.

NFHA is dedicated to ending housing discrimination and ensuring equal housing opportunity for all people. With several member organizations within the Fifth Circuit, we are deeply concerned about a nominee whose civil rights record reveals a lack of commitment to equality and justice.

We find the civil rights record of Judge Southwick on the Mississippi Court of Appeals quite troubling. His rulings on race discrimination in the areas of employment and jury selection lead us to question his ability to be a fair and impartial decision-maker in cases involving housing discrimination.

Judge Southwick participated in a shocking 5–4 decision that essentially excused an employee's use of a racial slur. The holding in Richmond v. Mississippi Department of Human Services affirmed a Mississippi Employee Appeals Board hearing officer's decision to reinstate an employee who had been fired for calling her co-worker a ''good ore nigger.'' The officer had concluded that the employer had overreacted because the term was not a racial slur but rather equivalent to calling the black employee ''teacher's pet.'' The majority, including Judge Southwick, agreed, finding that taken in context, the comment ''was not motivated out of racial hatred or racial animosity directed toward a particular co-worker or toward blacks in general.''

This decision drew a strong dissent and was unanimously reversed by the Mississippi Supreme Court. The dissenters stated that the majority's reasoning ''strains credulity'' because ''[t]he word 'nigger' is, and has always been offensive.'' They went on to argue that ''the hearing officer and the majority opinion seem to suggest that absent evidence of a near race riot, the remark is too inconsequential to serve as a basis of dismissal.''

Judge Southwick's reasoning in Richmond is indicative of a general lack of concern for rice discrimination, and it reveals a potential hostility toward equal opportunity in housing. Many cases of housing discrimination involve intimidation through racial slurs. In this context, as in all contexts, the word ''nigger'' is powerful, offensive, and threatening. The following cases are indicative of the pervasive nature of this deplorable conduct in housing cases:

In Bradley v. Carydale Enterprises, the Eastern District of Virginia ordered compensatory damages for an African-American woman whose neighbor had called her ''nigger.'' The court noted that the term ''deeply wounded'' the woman, pointing to her humiliation and embarrassment, sleepless nights, and inability to perform at her job.

In Smith v. Mission Associates Ltd. Partnership, an on-site property manager called a white tenant a ''nigger-lover'' because of his live-in girlfriend's bi-racial children, and the manager's son told one of these children he didn't like ''niggers.'' Based on this and other racially hostile conduct, the District of Kansas held that the plaintiffs had established a prima facie case for a hostile housing environment under the Fair Housing Act.

In Cousins v. Bray, the Southern District of Ohio granted the plaintiffs' motion for a preliminary injunction against eviction and any attempts of harassment, intimidation, or threats. The court found that the plaintiffs' allegations that defendants had referred to their biracial sons as ''niggers'' helped to establish that race motivated their eviction, in violation of the Fair Housing Act.

And just this month, in United States v. Craft, the Seventh Circuit relied on an arsonist's use of the term ''nigger'' to determine that he targeted a black man's house because of the victim's race. It held the arsonist in violation of the portion of the Fair Housing Act that prohibits the use of coercion or intimidation to interfere with property rights.

As these cases demonstrate, our federal courts acknowledge that harmful racial slurs like ''nigger'' are powerful tools in the denial of fair housing. We are deeply concerned that based on his record, Judge Southwick does not share these ideals, and we question his ability to be a fair and impartial decision-maker in these and other civil rights cases.

Thus, we strongly oppose Judge Southwick's nomination to the Fifth Circuit Court of Appeals and believe the Senate should not confirm him.

Sincerely yours,

SHANNA SMITH,
President.

SERVICE EMPLOYEES INTERNATIONAL UNION,
Washington, DC, June 6, 2007.

Hon. PATRICK LEAHY,
Chair, U.S. Senate Judiciary Committee Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, U.S. Senate Judiciary Committee Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SPECTER: I am writing on behalf of the 1.8 million members of the Service Employees International Union (SEIU), including the health care, public sector and property service members who live and work in the Fifth Circuit, to oppose the nomination of Judge Leslie H. Southwick to the United States Court of Appeals. SEIU joins the civil rights organizations, professional societies and editorial boards which have stated their opposition to Judge Southwick's nomination because of his consistent record of hostility to the rights of minorities and gay parents as well as his practice of going beyond the resolution of the case at issue to inject his own views on social and legislative policies into his decisions. We write separately to express our concerns regarding Judge Southwick's rulings regarding workplace issues and his ability to fairly enforce the nation's labor and employment laws.

In his dissent in *Cannon* v. *Mid-South X-Ray Co.*, 738 So. 2d 274 (Miss. App. Ct. 1999), Judge Southwick argued that the claim of Annie Cannon, a worker exposed to toxic chemicals in her work place, should be rejected because it was barred by the statute of limitations. Ms. Cannon had begun to experience health problems soon after the start of her employment as a darkroom technician. However, while the severity of the problems increased over time, Ms. Cannon's condition was not diagnosed by a doctor as work related until sometime later. Based on this diagnosis, Ms. Cannon filed suit.

Judge Southwick argued that all that is necessary for the statute of limitations to run against a plaintiffs claim is that the plaintiff know of her illness, not the cause of her illness. This rule, as the eight judges in the majority recognized, places an unreasonable burden on a worker ''who cannot reasonably be expected to diagnose a disease on which the scientific community has yet to reach an agreement.'' While Ms. Cannon knew she was sick, she did not know she had been injured by the defendants until her disease was affirmatively diagnosed by her doctor and therefore should not have been required to file a cause of action which she did not know even existed.

The use of a procedural device by Judge Southwick to deny an injured worker her day in court is chillingly similar to the rule announced by Justice Alito in *Ledbetter* v. *Goodyear Tire & Rubber Co.*, 550 U.S.—(2007). In that case, Lilly Ledbetter's pay disparity claim was not ''easy to identify'' because the impact of that discrimination, like Ms. Cannon's illness, grew over time and when it reached the point that it was clear that discrimination, or work place chemicals, was the cause, an action was filed. In upholding the dismissal of Ms. Ledbetter's case, Justice Alito relied upon same statute of limitations procedural device employed by Judge Southwick in denying Ms. Cannon her day in court.

In another dissent, Judge Southwick offers a gratuitous insight into his judicial philosophy on the subject of employment at will. The employment at will doctrine, which is premised on the illusion that employers and individual workers have equal power in the employment relationship, has been consistently criticized and limited by legislative and judicial action over the last hundred years. However, in *Dubard* v. *Biloxi H.M.A.*, 1999 Miss. App. Lexis 468 (1999), *rev'd*, 778 So. 2d 113, 114 (Miss. 2000), Judge Southwick opines that ''employment at will . . . provides the best balance of the competing interests in the normal employment situation. It has often been said about democracy, that it does not provide a perfect system of government, but just a better one than everything else that has ever been suggested. An equivalent view might be seen as the justification for employment at will.'' Judge Southwick's radical statement of judicial philosophy calls into question the legitimacy of most federal employment laws enacted in the twentieth century, from the minimum wage to the Family and Medical Leave Act, implying that they are inconsistent with a democratic system of government.

Judge Southwick's record of judicial activism evidences a willingness to erect insurmountable barriers to workers seeking access to the courts and an aversion of laws which limit the employer's unrestricted right to control the employment relationship. He should not be given a lifetime appointment to a court where he will be called upon to enforce laws that he clearly disdains by injured workers who he believes have no right to ask for relief. We ask the Committee to reject the nomination of Judge Southwick to the United States Court of Appeals for the Fifth Circuit.

Sincerely,

ANNA BURGER,
International Secretary-Treasurer.

NATIONAL WOMEN'S LAW CENTER,
Washington, DC, June 6, 2007.

Re Nomination of Leslie Southwick to the U.S. Court of Appeals for the Fifth Circuit

Hon. PATRICK J. LEAHY,
Chair, U.S. Senate Judiciary Committee, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Member, U.S. Senate Judiciary Committee, Washington, DC.

DEAR SENATORS LEAHY AND SPECTER: We write to express our serious concerns regarding the nomination of Leslie Southwick to the U.S. Court of Appeals for the Fifth Circuit. As an organization dedicated to advancing and protecting women's legal rights, the National Women's Law Center (NWLC) has reviewed Judge Southwick's available record, his testimony before the Committee, and his responses to Senators' written questions in order to assess his commitment to upholding essential civil rights protections. This substantive review has led the Center to conclude that there is a significant basis to doubt that commitment. Under these circumstances, it is especially troubling that hundreds of unpublished opinions that Judge Southwick joined while on the Mississippi Court of Appeals have not been produced to the Committee. As a result, the legal record that serves as the basis for determining his fitness for a lifetime position on the Fifth Circuit remains woefully incomplete. Consequently, we urge the Committee not to advance Judge Southwick's nomination until all of his record has been made available and has been reviewed, and until the substantive concerns have been satisfied.

Judge Southwick's actions in S.B. v. L.W. and Richmond v. Mississippi Department of Human Services raise significant concerns. Judge Southwick joined a separate concurrence in S.B. v. L.W. and joined the majority opinion in Richmond. Although he did not write those opinions, the result and reasoning therein is properly ascribed to him. As Judge Southwick stated in his hearing before the Committee, his decision to join an opinion as a judge on the Mississippi Court of Appeals meant that he at least agreed with the outcome espoused by that opinion. He also acknowledged at the hearing that he could have worked with the author of an opinion to change its language and at all times had the option of writing his own separate opinion.

In S.B. v. L. W., a 2001 custody case involving the parental rights of a mother in a homosexual relationship, Judge Southwick joined the majority in its holding awarding custody to the father. He also chose to join a concurrence that gratuitously took pains to elaborate the punitive ''consequences'' that may be imposed on individuals in homosexual relationships, including the loss of custody of a child. The concurrence expounded upon the state's ability, grounded in principles of ''federalism,'' to limit the rights of homosexual Americans in the area of family law and characterized participation in a homosexual relationship as a ''choice'' and ''exertion of a perceived right.'' In addition, although neither party to the case had raised constitutional questions, the concurrence undertook to discuss constitutional precedent in a highly selective manner to support its conclusion that the Mississippi legislature had permissibly taken a policy position with regard to the rights of homosexual individuals in domestic relations settings that would limit the custody rights of homosexual parents. The opinion cited the Supreme Court's decision in Bowers v. Hardwick, which upheld criminal penalties for sodomy, but ignored Romer v. Evans, which struck down a ballot initiative that ''classifie[d] homosexuals not to further a proper legislative end but to make them unequal.'' To make matters worse, when Judge Southwick was questioned about the concurrence's failure to discuss Romer, he answered that neither Romer nor Bowers was argued by the parties to the case. However, his answers do not speak to why the concurrence only cited Bowers, and, therefore, do not allay our concerns about the impartiality of the legal analysis in this case.

Furthermore, while Judge Southwick indicated in written responses that the custody decision would be evaluated differently today in light of the Supreme Court's decision in Lawrence v. Texas, he did not directly address concerns raised by the language of the concurrence either in his written answers or in his testimony, although he was asked to do so. He did not clarify whether he considers homosexuality to be a choice as suggested in the concurrence and provided no persuasive justification for his seeming endorsement of extraordinarily harsh penalties for that so-called choice.

Judge Southwick's decision to join the majority opinion in Richmond v. Mississippi Department of Human Services, affirming a state review board's decision to overturn a state agency's termination of an employee for referring to an African-American employee as a ''good ole n*****,'' also raises serious concerns. The majority in Richmond concluded that the terminated employee ''was not motivated out of racial hatred or racial animosity directed toward a particular co-worker or toward blacks in particular,'' and that there was no ''credible proof'' that the use of this highly inflammatory racial epithet caused substantial problems within the agency workplace. This majority opinion failed to adequately consider the discrimination inherent in the use of that particular racial epithet and required an unnecessarily stringent showing of disruption from the employing agency. The Mississippi Supreme Court unanimously reversed the Court of Appeals' decision, remanding to the review board to make findings as to whether the agency acted properly under state personnel rules, and as to whether a lesser penalty than termination should be imposed.

Judge Southwick's testimony before the Senate Judiciary Committee and his responses to written questions did not alleviate NWLC's concerns. It is disturbing that Judge Southwick continues to consider the majority opinion in Richmond well-reasoned and declined to criticize the opinion he joined in part so as not to ''change horses mid-stream.'' In addition, Judge Southwick's characterization of the standard of review in his written questions as whether no evidence sported the review board's decision (rather than whether substantial evidence support it) is incorrect. Whether the mischaracterization represents his original understanding of the standard of review or a post-hoc attempt to justify joining the majority, his position is equally troubling. Further, although the Mississippi Supreme Court concluded that the employee should not have been terminated, two strong dissents raised grounds for Judge Southwick to consider whether his decision to join the majority opinion was correct: first, that the Court of Appeals improperly placed the burden of proof upon the agency with regard to the issue of the disruptive effect of the epithet; second, that failing to terminate the employee could have subjected the agency to a federal discrimination action and thus would have constituted negligence; and third, that the majority of the Mississippi Supreme Court substituted its judgment for the review board's. As a result, Judge Southwick's reliance on the Mississippi Supreme Court opinion in answer to questions about whether he believed his decision to join the majority in Richmond was correct does not eliminate our concerns.

Although our concerns are primarily grounded in only two of the reported cases that came before Judge Southwick on the Mississippi Court of Appeals, these cases are significant because they are among the few in his available record that raise constitutional and civil rights issues that Judge Southwick would face if confirmed to the Fifth Circuit. Moreover, hundreds of unpublished opinions that Judge Southwick joined during his first two years on the Mississippi Court of Appeals have not been tamed over to the Committee. These opinions could implicate an even broader range of legal issues and could shed light on Judge Southwick's approach to the constitutional and federal legal issues that come before the Fifth Circuit. It is critical for Senators and the public to be able to review a nominee's complete record when a lifetime appointment to the

federal bench is at stake. To allow this already-questionable nomination to move forward while substantial gaps in the record exist would be highly unfortunate and unwarranted.

No judicial nominee enjoys a presumption in favor of confirmation; rather, it is the nominee who carries the burden of convincing the Senate that he or she should be confirmed. NWLC respectfully urges the Committee not to vote Judge Southwick out of committee while his record remains incomplete, and while substantive concerns raised by his available record have not been allayed. If you have questions or if we can be of assistance, please contact us at (202) 588–5180.

Sincerely,

NANCY DUFF CAMPBELL,
Co-President.
MARCIA D. GREENBERGER,
Co-President.

PARENTS, FAMILIES AND FRIENDS OF LESBIANS AND GAYS,
Washington, DC, June 7, 2007.

Senator PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY AND SENATOR SPECTER: On behalf of more than 200,000 members and supporters of Parents, Families and Friends of Lesbians and Gays (PFLAG), I am writing to urge the Judiciary Committee to reject the nomination of Judge Leslie H. Southwick to the 5th Circuit Court of Appeals. There is absolutely nothing in Judge Southwick's troubling record, written responses, or testimony to the committee to indicate that he can fairly judge cases involving gay, lesbian, bisexual or transgender families or any other minority parties.

As a member of the Mississippi Court of Appeal, Judge Southwick joined a majority opinion which took custody of an eight-year-old child away from her mother, citing in part the mother's ''lesbian home'' and ''homosexual lifestyle'' as justification for the decision. Additionally, Judge Southwick was the only other judge to join a concurring opinion by Judge Payne that unnecessarily referenced the state's probation on gay and lesbian adoption, despite the fact that this was not an adoption case, using the phrase ''the practice of homosexuality'' throughout. Most disturbingly, the concurrence states that even if the mother's sexual acts are her choice she must accept the fact that losing her child is a possible consequence of that choice.

We hope that you will agree that all American families, including those living in Mississippi, Louisiana, and Texas, deserve a federal court system free from bias, regardless of their sexual orientation or gender identity. We are in no way confident that Judge Leslie H. Southwick can provide that basic right. Because of this, we strongly urge you to oppose the nomination of Leslie H. Southwick to a lifetime seat on the 5th Circuit Court of Appeals.

For more information please contact our Assistant Director of Programs, Elizabeth Hampton Brown, at (202) 467–8180 ext. 211 or e-mail ebrown@pflag.org.

Sincerely,

JODY M. HUCKABY,
Executive Director.

ALLIANCE FOR JUSTICE,
Washington, DC, May 31, 2007.

Hon. PATRICK J. LEAHY,
Chair, Committee on the Judiciary, U.S. Senate, Washington, DC.
Hon. ARLEN SPECTER,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SPECTER: No nominee to a lifetime seat on our federal courts is entitled to a presumption of confirmation. As Senator LEAHY has stated, the Senate's constitutional ''advice and consent'' role is a serious responsibility, by which ''those 100 of us privileged to serve in the Senate are entrusted with protecting the rights of 280 million of our fellow citizens.'' Were the Senate to confirm Judge Leslie Southwick to a lifetime appointment on the Fifth Circuit, it will in fact have placed in jeopardy the rights of many of the most vulnerable of our fellow citizens. As a judge on the Mississippi Court of Appeals, Judge Southwick assembled a deeply troubling record in cases involving the interests of vulnerable parties, consistently favoring corporations, insurance companies, and other powerful interests over vulnerable workers and consumers. His record also calls into question his commitment to equal dignity and equal justice for minorities.

Judge Southwick's published opinions reveal that he voted 89 percent of the time against injured workers and consumers in divided employment and torts decisions. In a number of these cases, Judge Southwick harshly interpreted laws and precedents to favor corporate defendants. In Goode v. Synergy Corporation, Judge Southwick voted to deny a family, who sued the propane company after their grandchild was killed in a fire, a new trial even though there was new evidence previously undisclosed by the company, showing that the company's conduct may have caused the fire.

Although there are few cases that shed light on Judge Southwick's views on civil rights, those that do are profoundly troubling. Astonishingly, in one of his exceedingly rare decisions in favor of an employee, he joined the court's 5–4 opinion in Richmond v. Mississippi Dep't of Human Services, which upheld an Employee Appeals Board decision to reinstate, with full back pay, a woman who used a racial slur in reference to a coworker, calling her a ''good ole n*****.'' In neither the opinion he joined, nor in his answers to questions at his confirmation hearing, did he express doubts about the decision he joined in Richmond. He and his colleagues on the majority also declined to remand the case to the Board for assessment of a lesser penalty—as one dissenting opinion urged and the Mississippi Supreme Court later ordered in reversing the Court of Appeals. Judge Southwick and the majority would have allowed the employee full reinstatement with back pay in spite of the epithet.

In S.B. v. L.W., Judge Southwick joined a homophobic concurrence arguing that sexual orientation was a perfectly legitimate basis on which to deny a parent custody of one's child. At his hearing, he attempted to explain this opinion as a reflection of the intent of the legislature as to the rights of gay parents. However, a dissenting opinion in S.B., along with a subsequent Mississippi Supreme Court decision stating that sexual orientation was not a basis on which to deny child custody, demonstrate that Judge Southwick's attempt to deflect criticism to the state legislature is questionable indeed.

The Senate must be especially wary of Judge Southwick's nomination because the president, in his six years in office thus far, has engineered a transformation of the federal courts to reflect an ideology that is hostile to the rights of minorities and our society's most vulnerable members. Moreover, the president has shown little willingness to promote diversity on the bench. Astonishingly, there has never been an African-American Fifth Circuit judge from Mississippi, a state with a population that is 37% African-American. Thus, it is particularly troubling that the President has now nominated someone to this Mississippi seat whose record raises such grave doubts about his racial sensitivity and his commitment to equal justice for all Americans.

President Bush and his Senate allies have exploited every opportunity to confirm the nominees of the hard right, steamrolling venerable Senate rules and traditions to achieve this goal. The current Senate now faces a choice: stand up to nominees who will make our courts even less friendly to our most vulnerable citizens; or inherit a share of President Bush's disturbing legacy of remaking the courts in the partisan image of his right wing base. Judge Leslie Southwick represents a crossroads, and the Senate should choose to reject his nomination and insist that the President submit a nominee with a demonstrated commitment to equal rights and fairness to all Americans, regardless of their race, sexual orientation or economic status.

Sincerely,

NAN ARON,
President.

Mr. REID. Mr. President, first of all, let me say I have the greatest respect for my senior colleague, the Senator from Mississippi, Mr. COCHRAN, who is always a gentleman in everything he does. I have worked on the floor with Senator LOTT during the time I was assistant leader, and I have the greatest respect for him. I appreciate the way they have handled this and not making it personal in nature simply because I oppose something they want.

I say in response to my friend, the distinguished Republican leader, there is a different standard, as well there should be, for someone who is going to be placed on the trial court than somebody placed on the appellate court. So the reasoning that Senators approved in the committee a judge for a district court—clearly, the tradition in the Senate is, with rare exception, they are approved—so the argument that we have approved somebody for a trial court so they should automatically be approved for an appellate court simply is not valid.

Our Constitution outlines the shared responsibility between the Senate and the President of the United States to ensure that the judiciary is staffed with men and women who possess outstanding legal skills, suitable temperament, and high ethical standing.

As a leader, I have worked hard to ensure that the Senate carries out its work with respect to judicial nominees fairly and promptly, and with a lot of transparency.

The judicial confirmation process today is working well, and all Senators should be pleased to know that the judicial vacancy rate is currently at an all-time low. For people who yell and shout and complain about the Democrats not allowing Republicans to assume the bench, the judicial vacancy rate today is at an all-time low. We

have a Judiciary Committee that has helped this significantly. Senator Pat Leahy, Senator Arlen Specter—the chairman and ranking member of that committee—have as much collegiality as I have ever seen in a committee since I have been in the Senate. They have been fair, and they have been fast.

This year alone, the Senate has confirmed 32 judicial nominees, including four court of appeals nominees—in addition to the more than 250 others who have been approved during the past 6 years of the Bush administration.

In contrast, my Republican colleagues and my Democratic colleagues will clearly recall that during the Clinton administration, the Republican-controlled Senate refused to confirm 70 nominees. Think about that: 70 nominees. Many of them did not even have the courtesy of a hearing. Some of them waited almost 4 years for a hearing.

I remember how we were treated. But we have chosen to live by the Golden Rule. We have chosen this is not ''get even time;'' this is a time to be fair and to be open. The Golden Rule: Treat people as you would want them to treat you. I am happy to say that is how we have done this.

Judges with impeccable records, such as Ronnie White and Richard Paez, were maligned by Republicans merely for partisan political gain. That is wrong. We do not intend to initiate any of that while we are in charge of the Senate.

But today we face a judicial nomination that has attracted strong opposition. I turned in what is part of this RECORD a stack of organizations and individuals who simply oppose this nomination for lots of different reasons.

Opposition to the nomination of Judge Leslie Southwick for the Fifth Circuit Court is neither partisan nor political. It is factual. These facts are present deep within the fundamental American commitment to civil justice and equal rights, which is something we must stand by.

In the past few weeks, our Nation has seen the recurrence of racial issues that we had assumed and hoped were behind us. Yet, the recent events in Jena, LA, and at the U.S. Coast Guard academy—where nooses were hung to intimidate, demean, and belittle people of color—demonstrate that issues of race and intolerance are sorrowfully still present in our society.

For many Americans, for many African Americans, and for the Congressional Black Caucus—of which this body only has one member. When I first came to the House of Representatives, there were about 20 members of the Congressional Black Caucus. Now there are 78. I believe that is the number. That is good. That is good for our country. But those individuals concerned know the Federal courts have historically represented the first, last, and often the only form of redress against racism and civil injustice. For that reason, I believe this body has little choice but to consider the nomination of Judge Southwick to the Fifth Circuit Court in the context of race and civil rights.

I heard Senator SCHUMER here this morning talk about the demography of the State of Mississippi. That has to be something we take into consideration.

President Bush is asking us to confirm Southwick for one of the highest judicial positions in the United States: the United States Circuit Court of Appeals. It is a lifetime appointment. But for a court as important as the Fifth Circuit, Judge Southwick is the wrong choice. His record on the Mississippi State court does not justify a promotion. That is why I rise, once again, as I have many times regarding Judge Southwick, to express my strong opposition to this nomination. I urge my colleagues to join me in voting ''no.''

As a member of the Mississippi State appellate court, Judge Southwick joined decisions that demonstrate insensitivity to, and disinterest in, the cause of civil rights.

Mr. President, I ask unanimous consent that the hour of 11 o'clock time for the vote be extended. I should be finished shortly.

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

Mr. REID. Mr. President, I do believe that as a member of the Mississippi State appellate court, Judge Southwick joined decisions that demonstrate insensitivity to, and disinterest in, the cause of civil rights.

For example, in the Richmond case, he voted to uphold the reinstatement with back pay of a White State employee who had used a racial epithet about an African-American coworker.

Judge Southwick says the decision was about technical legal issues, but the dissent in the case by his colleague, Judge King, explains what was at stake. It was not a technical legal issue. As I said when I began, it was based on the facts. Judge King wrote, regarding the ''N'' word—and I quote him:

> There are some words, which by their nature and definition are so inherently offensive, that their use establishes the intent to offend.

It was clear in this decision that Judge Southwick should have joined what would have been the majority. The majority would have been with Judge King. He decided not to go with what would have been the majority and created his own majority to, in effect, agree that using this ''N'' word was nothing more than an offhand remark that meant nothing. It took the courageous action of judges on the Fifth Circuit to carry out the Supreme Court's desegregation decisions and destroy the vestiges of the Jim Crow era.

Judge Southwick, from what I have learned about him, is not capable of being part of that. Yet Judge Southwick's record gives us absolutely no reason to hope that he will continue this tradition of delivering justice to the aggrieved.

That is why there is no shortage of opposition to this nomination, first and foremost, as I have said, from our colleagues, Members of Congress, the Black Caucus. They cite opposition by the Magnolia Bar, the Mississippi NAACP, and countless other organizations that stand for justice. They have asked us to remember that their constituents are our constituents—some 45 million of them—and they deserve representation on this issue.

His decision in the Richmond case is his most serious problem, but Judge Southwick has failed in many other areas. He sides continually with plaintiffs in bad cases. He always, with rare exception, joins with corporations and not the workers. He appears to favor defendants.

There is no reason why the President can't find a nominee with a record fairly representing all people. If we reject Judge Southwick, the President will still have an opportunity to nominate another candidate. Judge Southwick's record has been fully documented by my colleagues who have spoken before me. His most grievous failure—I repeat—a failure to give full weight to the vile meaning and history of the ''N'' word—is deeply disturbing. I cannot overlook it.

I urge all my colleagues to join me in voting ''no,'' so we can find a candidate truly befitting this important lifetime appointment—a candidate who will give the people of the Fifth Circuit the confidence they deserve that their claim to justice will be heard with the respect and equality every American citizen deserves.

The PRESIDING OFFICER. All time for debate has expired.

Mr. LEVIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state his inquiry.

Mr. LEVIN. How many votes are required to invoke cloture and end the debate on the pending nomination under the rules and precedents of the Senate?

The PRESIDING OFFICER. It will be three-fifths of the Members duly chosen and sworn, that being 60.

Mr. LEVIN. I thank the Chair.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 291, the nomination of Leslie Southwick, of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

Mitch McConnell, Arlen Specter, Wayne Allard, Johnny Isakson, Richard Burr, Norm Coleman, David Vitter, Kay Bailey Hutchison, George V. Voinovich, John Thune, Jim DeMint, Tom Coburn, Michael B. Enzi, Elizabeth Dole, Jeff Sessions, Jim Bunning, John Barrasso, Trent Lott, and Thad Cochran.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Leslie Southwick to be United States Circuit Judge for the Fifth Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 35, as follows:

[Rollcall Vote No. 392 Ex.]

YEAS—62

Akaka	DeMint	Lugar
Alexander	Dole	Martinez
Allard	Domenici	McCain
Barrasso	Dorgan	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Nelson (NE)
Brownback	Feinstein	Pryor
Bunning	Graham	Roberts
Burr	Grassley	Salazar
Byrd	Gregg	Sessions
Carper	Hagel	Shelby
Chambliss	Hatch	Smith
Coburn	Hutchison	Snowe
Cochran	Inhofe	Specter
Coleman	Inouye	Stevens
Collins	Isakson	Sununu
Conrad	Johnson	Thune
Corker	Kyl	Vitter
Cornyn	Lieberman	Voinovich
Craig	Lincoln	Warner
Crapo	Lott	

NAYS—35

Baucus	Kerry	Obama
Bayh	Klobuchar	Reed
Biden	Kohl	Reid
Bingaman	Landrieu	Rockefeller
Brown	Lautenberg	Sanders
Cantwell	Leahy	Schumer
Cardin	Levin	Stabenow
Casey	McCaskill	Tester
Clinton	Menendez	Webb
Durbin	Mikulski	Whitehouse
Feingold	Murray	Wyden
Harkin	Nelson (FL)	

NOT VOTING—3

Boxer	Dodd	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 62, the nays are 35. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. Under the previous order, the question is, Shall the Senate advise and consent to the nomination of Leslie Southwick to be United States Circuit Judge for the Fifth Circuit.

Mr. REID. Mr. President, 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 legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote ''nay.''

The PRESIDING OFFICER (Mr. WEBB). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 393 Ex.]

YEAS—59

Akaka	DeMint	Lugar
Alexander	Dole	Martinez
Allard	Domenici	McCain
Barrasso	Dorgan	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Nelson (NE)
Brownback	Feinstein	Pryor
Bunning	Graham	Roberts
Burr	Grassley	Sessions
Byrd	Gregg	Shelby
Chambliss	Hagel	Smith
Coburn	Hatch	Snowe
Cochran	Hutchison	Specter
Coleman	Inhofe	Stevens
Collins	Isakson	Sununu
Conrad	Johnson	Thune
Corker	Kyl	Vitter
Cornyn	Lieberman	Voinovich
Craig	Lincoln	Warner
Crapo	Lott	

NAYS—38

Baucus	Inouye	Obama
Bayh	Kerry	Reed
Biden	Klobuchar	Reid
Bingaman	Kohl	Rockefeller
Brown	Landrieu	Salazar
Cantwell	Lautenberg	Sanders
Cardin	Leahy	Schumer
Carper	Levin	Stabenow
Casey	McCaskill	Tester
Clinton	Menendez	Webb
Durbin	Mikulski	Whitehouse
Feingold	Murray	Wyden
Harkin	Nelson (FL)	

NOT VOTING—3

Boxer	Dodd	Kennedy

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President is notified of the Senate's action.

Mrs. CLINTON. Mr. President, I opposed the nomination of Leslie Southwick to serve a lifetime appointment on the U.S. Court of Appeals for the Fifth Circuit. His tenure as a judge on the Mississippi Court of Appeals reveals a record that fails to honor the principles of equality and justice and demonstrates a disregard for civil rights.

The American people deserve Federal judges—regardless of who nominates them—who are dedicated to an evenhanded and just application of our laws. In case after case, Judge Southwick has demonstrated a lack of respect and understanding for the civil rights of all Americans, and particular indifference towards the real and enduring evils of discrimination against African Americans and gay and lesbian Americans.

After reviewing his judicial opinions and examining his qualifications, I have concluded that Judge Southwick's regressive civil rights record should disqualify him from serving a lifetime appointment on the Court of Appeals for the Fifth Circuit. I urge the President to select judicial nominees who embrace the principle that all are equal under the law.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

DEVELOPMENT, RELIEF, AND EDUCATION FOR ALIEN MINORS ACT OF 2007—MOTION TO PROCEED

The PRESIDING OFFICER. There will now be 20 minutes of debate equally divided before a cloture vote on a motion to proceed to S. 2205.

The majority leader.

Mr. REID. Mr. President, I am going to use my leader time so it does not interfere with the 20 minutes allocated.

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

Mr. REID. Mr. President, earlier this year, we had a chance at comprehensive immigration reform. I agree with the President of the United States that we should do comprehensive immigration reform. President Bush and I, I repeat, were in agreement. That effort brought people together from both sides of the aisle, from all parts of the political spectrum. We agreed our current immigration system works well for no one. That effort brought Democrats and Republicans together in pursuit of a common good.

Many of us then were profoundly disappointed when this issue was stopped, not because of the President, but by Republicans in the Senate and a few Democrats. It was a real disappointment to me. We had spent so much time on the floor trying to move forward on comprehensive immigration reform.

I continue to believe that tough, fair, practical and comprehensive reform is the only way to get control of our broken immigration system and restore the rule of law. I remain committed to enacting comprehensive legislation as soon as we can. But until we can once again look forward to comprehensive immigration reform, we should, at the very least, enact the DREAM Act. We tried to offer this crucial legislation as an amendment to the Defense authorization bill, but we were blocked from doing so by a small number of Republicans.

At that time, I committed to moving the DREAM Act for a vote before November 16. Today, that is where we are. We now turn to the DREAM Act as stand-alone legislation, and I once again rise to offer my strong support for this legislation. Anyone who believes as I do that education unlocks doors to limitless opportunity should join me in voting for this legislation.

We should vote for this legislation because the DREAM Act recognizes

that children should not be penalized for the actions of their parents. Many of the children this bill addresses came here when they were very young. Many don't even remember their home countries—in fact, most of them don't—or speak the language of their home countries. They are as loyal and devoted to our country as any American. Only children who came to the United States when they were 15 years old or younger and have been in the United States for at least 5 years and are now not yet 30 years old can apply. Those who are eligible must earn a high school diploma, demonstrate good moral character, and pass criminal and security clearances. They must also either go to college or serve in the military for 2 years.

I have met many star students in Nevada who qualify for the DREAM Act. With it, their futures are limitless. Without it, their hope is diminished greatly. What a waste it is to make it more difficult for children—children in our country—to go to college and get jobs or join the military when they can be making meaningful contributions to their communities and to our country. What good does it do anybody to prevent these young people from having a future? The answer is it does no good. It harms children who have done no wrong, and in the long run it greatly harms our country's economy.

I very much appreciate the hard work of Senator DURBIN and Senator HATCH to bring this legislation to the floor. They have worked tirelessly to ensure this important bipartisan bill does not go away. We must now invoke cloture and pass this bill. Vote cloture and move to this legislation. If we do, we will put the American dream within the reach of far more children in Nevada and across America who want nothing more than a fair chance at success. That will be an accomplishment of which we can all be proud.

A lot of what we do is based on personal experiences. My memory goes back many years to a small rural community in Nevada called Smith Valley. It is one of the few farming areas we have left in the State of Nevada. It is a beautiful place. I spoke to an assembly at a small school, and I could tell this young lady wanted to speak to me when I finished. She was embarrassed, of course. But I asked her if she wanted to talk to me, and she was embarrassed—clearly embarrassed. She said words to this effect: I am the smartest kid in my class. I am graduating from high school soon. I can't go to college. My parents are illegals.

I have thought about that so much. I don't know where she is today. Is she doing domestic work someplace? What is she doing? She should have been able to go to college. Not a free education—that isn't what this bill calls for—but an opportunity to go to college.

In Reno and in Las Vegas we have scores of gangs—many of them Hispanic gangs—doing illegal things much of the time. Not all the time but much of the time. There is no question—I have been told by police officers, by high school counselors—that this legislation would give children an alternative, an alternative to going into the gangs.

So I appreciate this legislation. It is all-American legislation, which is so important for what we want to accomplish in this country. I would hope my fellow Senators will allow this legislation to move forward by voting yea on the motion to proceed.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, every once in a while we disagree with the majority leader. In this case, I do. When he says the immigration bill brought us together, it didn't bring us together. Let us remember what happened, though. The immigration bill: We came in on a Monday and expected to vote on a bill that no one had seen until Saturday afternoon. Now, this is another sudden thing upon us, and let us keep in mind this is an amnesty bill. We are talking about people who came to this country illegally, regardless of age.

This says: If you have lived in the United States for more than 5 consecutive years, even though you came in illegally, and if you entered this country at age 16 or before—and you could have been here for as long as 14 years illegally, because they have the cutoff at age 30—then you will be getting a conditional, lawful permanent residence—a green card—for up to 6 years.

What can you do during that 6-year period? During that 6-year period you can actually bring in other members, parents and others, who were brought here illegally in the first place, so they can enjoy that same type of citizenship.

Now, I know I am prejudiced on this issue because I have had the honor of speaking at naturalization ceremonies. When you look at the people who have done it right, done it legally—they have learned the language and the history—this or any other type of an amnesty bill would be a slap in the face to all those who came here legally.

So I would ask the question: When do we learn? We went through this thing before. I know we try to fast-track these things so people will not catch on, but I can assure you, all of America is awake on this one and they know exactly what we are doing. This is another amnesty bill, and I believe we should not proceed to it.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish to commend Senator DURBIN and Senators HATCH, LUGAR, HAGEL, and MENENDEZ for their commitment to this bill. This legislation would allow young people who have grown up in the United States a chance at stability, and a chance to achieve the American dream by attending college or serving in our military.

I do not believe it is the American way to punish young people for the mistakes of their parents. When these young people have the opportunity to reach their potential by service in our Armed Forces or through higher education, we all win. Opening the door to opportunity, not squandering the potential of young people, is part of what America is all about.

So let us take a first step toward sensible immigration policy and move beyond the rhetoric and give these people a chance of fulfilling the American dream.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial appearing in today's New York Times.

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

[From the New York Times, Oct. 24, 2007]

A CHANCE TO DREAM

The Senate has a chance today to pluck a small gem from the ashes of the immigration debate. A critical procedural vote is scheduled on the Dream Act, a bill to open opportunities for college and military service to the children of undocumented immigrants.

Roughly 65,000 children graduate each year from high school into a constrained future because they cannot work legally or qualify for most college aid. These are the overlooked bystanders to the ferocious bickering over immigration. They did not ask to be brought here, have worked hard in school and could, given the chance, hone their talents and become members of the homegrown, high-skilled American work force.

The bill is one of the least controversial immigration proposals that have been offered in the last five years. But that doesn't mean much. Like everything else not directly involving border barricades and punishment, it has been branded as ''amnesty,'' and has languished.

But this bill is different, starting with its broad, bipartisan support, from its original sponsor, the Utah Republican Orrin Hatch, to its current champion, Richard Durbin, Democrat of Illinois. Repeated defeats have forced Mr. Durbin to pare away at the bill's ambitions. It focuses now on a narrow sliver of a worthy group: children who entered the country before age 16, lived here continuously for at least five years and can show good moral character and a high school diploma. They would receive conditional legal status for six years, during which they could work, go to college and serve in the military. If they completed at least two years of college or military service, they would be eligible for legalization.

These young people—their numbers are estimated at anywhere from a million to fewer than 100,000—are in many ways fully American, but their immigration status puts a lock on their potential right after high school. They face the prospect of living in the shadows as their parents do, fearing deportation to countries they do not know, yearning to educate themselves in a country that ignores their aspirations.

The Dream Act rejects that unacceptable waste of young talent. The opportunity is there, provided the votes are there in the Senate.

Mr. LEAHY. I yield the floor, and I yield the remainder of my time to Senator DURBIN.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, many speeches are made on the floor, many amendments are offered, many bills, and many resolutions. Very few of them cause a ripple. A handful of people may follow them closely, a handful of people may care. The DREAM Act is a different thing. The DREAM Act is a bill which I thought about and introduced years ago, and it has finally reached this moment of truth where it comes to the floor of the Senate. The reason why this bill will be noticed is that literally thousands of young people across America know that their fate and future will be determined by this vote.

Yesterday, I had a press conference with three of these young people. A Congressman from the State of Colorado sent out a press release arguing that these three young people should be arrested in the Capitol. Of course, he didn't take the time to determine that they are all here now with the understanding of and disclosure to the Department of Homeland Security. But his press release is an indication of how badly this debate is going in America. To turn on these children and treat them as criminals is an indication of the level of emotion and, in some cases, bigotry and hatred that is involved in this debate.

America is better than that. America is a better nation than what we hear from the likes of that Congressman. What crime did these children commit? They committed the crime of obeying their parents; following their parents to this country. Do you think there was a vote in the household about their future? I don't think so. Mom and dad said: We are leaving. And the kids packed their suitcases and followed. That is their crime. That is the only crime you can point to. What did they do after they got here? To qualify under the DREAM Act, they had to make certain they didn't commit a crime while living in America; they had to have good moral character and beat the odds and graduate from high school. That is the only way they can qualify for this.

Then what do we say? Not enough. If you want to be legal in America, you have to do one of two things: Volunteer to serve in our military, to risk your life for America, and then we will give you a chance to be citizens. But even that is not good enough for some. Some argue, no, we don't want them in our military. We don't need them. Well, the people involved in our military know better. They know these are the kind of bright, promising young people who can serve our country with distinction and they tell us that.

What else could they do? They can pursue their education to show they are serious about making something out of their lives. These are the only two ways they get a chance. That is what the DREAM Act is all about.

I could go for an hour or more with stories of these young people whom I have met. They are hopeful and heartbreaking at the same time. They are hopeful stories because these are young people who have the same dreams my children have, the same dreams every American child has: to have a good life, a good family, and do something important in their lives. That is all they want.

The young woman from India I met in Chicago wants to be a dentist. The young man from Mexico, who is now pursuing his graduate degree in biomedical science, wants to go into research. A young girl from Texas is a graduate of nursing school but can't find a job because she is a person without a country. Tomorrow's teachers and engineers and scientists. All they are asking for is a chance. That is the hopeful side of it.

The heartbreaking side of it is these are kids without a country. They have nowhere to turn. Tam Tran, who is with us today and who joined me yesterday, has been through an arduous journey, starting in Vietnam, going to Germany, then coming to the United States. Her family can't return to Vietnam and face persecution, and Germany would not have her. She doesn't even speak German. Yet our government tells her: Leave. She graduated from UCLA. She wants to pursue a degree and be a professor.

Leave. We don't want you. Is that the message? If it is, it is the wrong message. Because time and again we are told we need talent in America to be a successful and prosperous nation. We are told we need to bring in talent from overseas with our H–1B visas and the H–2B visas. Well, how can we, on one side of the argument, say we need more talent and then turn these children away, turn these young people away? Give them a chance. Give them hope. Give them a chance to prove themselves in this country.

This bill puts them through a long process. It will not be easy. Some will not make it. Most will not make it. But those who do will make this a better Nation. Isn't that what we should be about?

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I would like to be recognized for 2 minutes, and if you can announce when that time has expired.

The PRESIDING OFFICER. The Senator will be notified.

Mr. VITTER. Mr. President, I think there are millions of Americans all around the country who wish no ill will on these minors whom we are talking about but are sitting at home following this debate, following this procedure, and scratching their heads and saying: Haven't these Members of Congress heard us? Don't they get it? Don't they understand what we have been saying loudly and clearly? Apparently, we don't.

I don't think the message could have been clearer from millions of Americans across the country this summer. They said during our debate on the overall so-called comprehensive immigration bill: No, you got it wrong. The enforcement in that bill is inadequate. It has not been accomplished. It is not done. We want that done first. And no, you got it wrong. We do not want amnesty.

Yet, even after that clear, compelling message from the American people, a message so overwhelming it shut down the Senate phone system the morning of the last vote which killed that bill, apparently a whole bunch of folks here still do not get it. They still are not listening. Because this is a bill which has no enforcement but does have clear amnesty.

The American people have no ill will toward these minors we are talking about. But they do have complete confusion with regard to what we are doing—not fixing the problem, making it worse. Inadequate enforcement plus amnesty, that is a recipe for disaster. They know that out of innate common sense. We do nothing to stop the magnet that attracts illegal aliens here because we have little or no workplace enforcement, in particular. Yet we continue with amnesty and other programs.

Please vote no, my colleagues, on proceeding to the DREAM Act.

Mr. GRASSLEY. Mr. President, I am voting against the motion to proceed to the DREAM Act today. Even though I support the end goal of this legislation; that is, to provide children with an education, I do not think the bill is perfect. I would like to see changes made. The bill didn't go through the proper channels and was not approved by the Judiciary Committee. Moreover, the majority leader has indicated that he will fill the tree and prevent the minority from offering amendments to the bill. ''Filling the tree'' by the majority leader is what this process is called and it freezes me out of offering amendments to improve the DREAM Act. For these reasons, I will oppose proceeding to the bill today.

Mr. FEINGOLD. Mr. President, I strongly support the DREAM Act. This bill would give promising children, who played no part in their parents' decision to come to this country illegally, the chance to earn legal status through college attendance or military service.

Some of my colleagues have suggested that this bill constitutes amnesty. But the term ''amnesty'' implies that these children did something wrong and are being absolved of the consequences of their actions. It is difficult to imagine how these children can be blamed for actions that their parents took when the children were too young to have any say. The United States does not visit the sins of parents on their children in other contexts and should not do so here. Furthermore, to call the bill ''amnesty'' ignores the fact that these children would be required to earn their legal status through academic achievement or military service.

The children who would be granted legal status under the DREAM Act are those who have shown through their actions that they can make an important contribution to our country. At a time when our economy and our military are in need, turning these children away squanders a valuable resource. It also leaves these children in a permanent limbo, as many of them have little or no knowledge of the country from which their parents came and have known no home other than the United States.

It serves neither justice nor our national interest to deprive these children of a future and to deprive ourselves of their potential contributions. That is why I support the DREAM Act, and I urge my colleagues to support it as well.

Mr. HAGEL. Mr. President, today, I rise in support of the DREAM Act, introduced by Senators DURBIN, LUGAR, and myself. Each year, thousands of hard-working students who graduate from American high schools are unable to attend college or serve in the military because of their illegal immigration status.

These young people were brought to the United States by adults who were breaking the law. In America, we have never held children responsible for their parents' sins. It is not the habit of the United States to punish children for the actions of their parents. Let's not start now.

Many have been in our country nearly their entire lives, and most have received their primary education here. They contribute to their communities and our country by earning higher education or serving in the Armed Forces. It is in our national interest that they be given the opportunity to do so. These young people were forced into an unfortunate position, which have made them outcasts in our society, yet they have proven their potential and ambition by meeting the several requirements necessary to be eligible under the DREAM Act for legal status. We need more young people to contribute to our country, not less.

The DREAM Act would make it possible to bring these young people out of shadows and give them the opportunity to contribute, work, and pay taxes—giving back to the communities in which they were raised.

The DREAM Act is not amnesty. It is a narrowly tailored piece of legislation that would help only a limited, select group of young people earn legal status. This is not an incentive for more illegal immigrants to enter our country. To be eligible for legal status under the DREAM Act, you must have good moral character, have graduated from an American high school, entered the country under the age of 15, and have been in the United States for at least 5 years. There is an end date to the DREAM Act.

The current system punishes children for the mistakes of their parents. The DREAM Act will provide a legal path for undocumented students to pursue the American dream based on their own accomplishments and hard work.

Immigration is a very complicated and difficult issue, for many reasons. Partly because we have deferred this issue for years. We have refused to take a responsible position on all the different aspects of immigration reform—including the DREAM Act.

Obviously border security is the core, the beginning of immigration reform. I am not aware of any Senator who has questioned or contested that point. In July, the Senate approved $3 billion in funding for border security and immigration enforcement—totaling $40.6 billion in overall funding for homeland security. From fiscal year 1993 to fiscal year 2006, the budget for the Border Patrol has tripled from $362 million to $1.6 billion.

That is not the debate. The debate, of course, resides around the difficult issues, the 11 to 12 million illegals now in this country. The debate elicits great and deep emotions and passion—and it should. We were sent here to deal with the great challenges of our time, to resolve the issues, find solutions, not go halfway. That is leadership.

Currently, we have provided no leadership for the American people. We have not had the courage to deal with it because it is political, because it is emotional, because it cuts across every sector and every line of our society. It is about national security. It is about autonomy and our future. It is about our society, our schools, our hospitals. That is difficult.

Who are we helping with the current situation that we have today? People stay in the shadows, we don't collect taxes, we don't have the complete involvement in communities that we have always had from our immigrants. There is a national security element to this. There is a law enforcement element to it, and there is certainly an economic element to it. Are we really winning? No, we are losing. We are losing everywhere.

You can take pieces of each and pick and choose which might make you more comfortable politically, but it doesn't work that way. It is all wrapped into the same enigma. It is woven into the same fabric. That is what we are dealing with.

It is leadership to take on the tough issues. Immigration is one of those issues which tests and defines a society. It tests and defines a country. And the precious glue that has been indispensable in holding this country together for over 200 years has been common interests and mutual respect. I don't know of an issue that is facing our country today that is more important, that is framed in that precious glue concept more precisely than this issue. Crafting something for the future, for our history, for our children, and for our society—that is what it is about.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, I don't know whether I am in control of time or not, but how much time is left on this side?

The PRESIDING OFFICER. The Republican side has 5 minutes 47 seconds.

Mrs. HUTCHISON. Mr. President, parliamentary inquiry: How much time is left on the other side?

The PRESIDING OFFICER. The majority side has 3 minutes 3 seconds.

The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I want to proceed on my leader time and preserve the remainder of time on this side for Senator SESSIONS.

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

Mr. MCCONNELL. Mr. President, earlier this year, a bipartisan group of Senators took up the issue of illegal immigration. It was clear from the debate that ensued that there are deeply held beliefs on both sides. It was also apparent that this is not a problem with a simple solution; it is one that requires time and consideration.

And to live up to the expectation of our constituents, it seemed clear to me that Congress must take steps to secure our borders and provide for our national security first. The Senate seemed to get the message, because it voted overwhelmingly in July to dedicate $3 billion in emergency spending to help promote our border and interior security.

I am disappointed my colleagues on the other side of the aisle are not continuing on the bipartisan path of enhancing our security. Instead, they are bringing up a controversial issue with the DREAM Act. This bill is an attempt to put illegal immigrants who graduate from a U.S. high school or obtain their GED on a special path to citizenship.

Though I recognize and appreciate the tremendous contributions to our country made by generations of immigrants, I do not believe we should reward illegal behavior. It is our duty to promote respect for America's immigration laws and fairness for U.S. citizens and lawful immigrants.

The DREAM Act fails that test and I will oppose it.

This is not an issue that can be solved in one day, and there are pressing matters which we must address.

Here we are, 4 weeks into the new fiscal year and we have yet to send a single appropriations bill to the President's desk. We should be focused on funding our troops in the field, ensuring our intelligence forces have the tools they need to find and catch terrorists, and holding the line on budget-busting spending bills.

The Internet tax moratorium expires in exactly 1 week. Unless we act soon, Internet users across the country will be hit with yet another tax.

And we still have yet to see any plan for addressing the looming middle class tax hike known as the alternative minimum tax. Secretary Paulson told Congress that we must act by early November if we don't want to see 50 million taxpayers ensnared in a confused

filing season next year. This deadline, too, is just around the corner.

We still have an enormous amount of work to complete, and we are running out of time.

I urge my colleagues to oppose this attempt to bring up a divisive issue, further delaying the essential, unfinished, business of the Congress.

The Senate has more than enough to do without also tackling issues that divide both this body and the Nation.

Mr. President, I wish to extend my time just 1 more minute.

It has been made clear to me in discussions that this will not be an open amendment process if we get on the bill. It is my understanding that the tree will be filled up, which, of course, would put the majority in control of deciding what amendments, if any, are offered. So this is not going to be an open debate, as far as I can tell.

Maybe the majority would decide to bless some amendment on this side and allow a vote on it. I guess that is possible. But for the balance of the people on this side of the aisle, on my side of the aisle, the Republican side, I want them to understand that even if we get cloture on the motion to proceed, there is certainly no guarantee that this will be an open process that will allow a broad array of amendments.

I yield the floor.

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

Mr. MCCONNELL. I yield to the Senator from Texas.

Mr. CORNYN. Mr. President, I appreciate the comments made by the distinguished Republican leader with regard to the process we can anticipate and the fact that the majority leader has indicated he will fill the amendment tree, blocking any ability of any Senator, both on this side of the aisle and the other side of the aisle, to offer amendments to improve the bill or perhaps add other provisions that cry out for some remedy.

I ask the distinguished Republican leader whether the types of amendments or suggestions that have been discussed informally would include things like adding a requirement of securing the borders and having an enforceable system at the worksite, or a trigger, before any other provisions like the DREAM Act would be considered or implemented; whether it would also consider—for example, we know that in the agricultural sector there is a lot of concern about a shortage of workers—whether there would be an ability to provide an amendment which would allow for not a path to citizenship but for a temporary workforce to satisfy that need in the agricultural sector; or, for example, in places like Texas that are fast growing States, whether there may be an opportunity to offer any amendments that would provide for a temporary worker program—not a path to citizenship—that would satisfy the legitimate needs of American business? Are those going to be precluded under the plan by the majority leader?

Mr. MCCONNELL. Mr. President, I say to my friend from Texas, I don't know for sure, but the way the process will work—we have seen it before under majorities of both parties—is the majority leader has the ability to fill up the tree and then deny any amendments or pick amendments. Only the majority leader would be able to answer the question whether an amendment dealing with workplace enforcement or an amendment dealing with border security or, in the case of this Senator, an amendment dealing with the H–2A agricultural worker program, which is important to my State—all of that would be within the sole authority of the majority leader, who would pick and choose if any amendments were allowed, pick and choose which ones were given a chance to have a vote.

I say to my colleagues here on the minority side, we will have little or no control—or none, no control at all over what amendments would be allowed. It would be entirely controlled by the majority leader.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. How much time do we have on this side?

The PRESIDING OFFICER. The Republicans have 5 minutes 45 seconds.

Mr. MCCONNELL. I know Senator SESSIONS is seeking time. Is Senator HUTCHISON trying to get some of the time on our side as well?

Mrs. HUTCHISON. Mr. President, I was really trying to have an opportunity to ask Senator DURBIN a question and have a colloquy. I don't want to take from your time on that. I ask if I could have a colloquy with Senator DURBIN on his time?

Mr. DURBIN. Mr. President, there has been some conversation here about procedure. If you would be kind enough—if the minority side will allow me 2 minutes for a colloquy with Senator HUTCHISON, and I would offer the same 2 minutes——

Mr. MCCONNELL. Would that be off the time of the Senator from Illinois?

Mr. DURBIN. No, no. I asked consent for an additional 2 minutes. I have 3 minutes remaining, so it would be a total of 5 minutes, 2 minutes for a colloquy with Senator HUTCHISON and myself, and I would extend 2 minutes to the time of the minority side.

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

Mr. DURBIN. Unless the Senator from Alabama or Pennsylvania wants to speak, I would enter into a colloquy with Senator HUTCHISON at this point?

Mr. SESSIONS. Mr. President, I have no objection to that. I assume it is a colloquy—but I would not want to concede that rather small amount of time remaining on this side.

Mr. MCCONNELL. We would lose no time, as I understand it. We would end up, actually, with more time, 7 minutes, which will allow the Senator from Alabama to have 5 and the Senator from Pennsylvania to have the remaining 2.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, during the course of preparing this bill for the floor, I have been working on both sides of the aisle. I hope the vote in a few minutes will evidence that. I have had a constructive conversation with Senator HUTCHISON of Texas and Senator MARTINEZ of Florida and others about modifications of the DREAM Act. I believe the proposals they have made in principle are positive proposals that move us toward our goal.

I say to the Senator from Texas, and I certainly am going to open this to her comments when I finish, it is my intention to offer a substitute amendment as the first amendment that is brought forward by the majority, a bipartisan amendment with Senator HUTCHISON which will achieve our mutual goals. I hope we can reach that agreement in the next 30 hours, after this motion prevails. Failing that agreement, the minority is protected because it will require another cloture vote, another 60-vote margin before this bill moves forward.

So they have my word to work in good faith on the substitute bipartisan amendment. Failing that, their protection is a cloture vote which they could join in defeating.

I yield to my colleague from Texas if she has any comment or question.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate what the Senator from Illinois has said because I do believe there is a compromise approach to the DREAM Act that could have bipartisan support. As has been mentioned on the floor, there is no opportunity that has been laid out for a substitute to be considered. But the Senator from Illinois has given me his word. I have been working on something that I think would take us on the right path. This is such an important piece of legislation, and I do think this is isolated from the entire immigration issue because there——

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent for 1 additional minute on both sides.

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

Mrs. HUTCHISON. Mr. President, there are young people who have been brought to this country as minors, not of their own doing, who have gone to American high schools, graduated, and who want to go to American colleges. They are in a limbo situation. I believe we should deal with this issue. We should do it in a way that helps assimilate these young people with a college education into our country. They have lived here most of their lives. If we sent them home, they wouldn't know what home is. There is a compassionate reason for us to try to work this out. But I will say, if we cannot work on a bipartisan amendment, we

will have another vote, as has been promised. I will vote against the Durbin bill. But if we can work on a bipartisan solution, we should try.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, how much time is left on this side?

The PRESIDING OFFICER. The Republicans now have 8 minutes 47 seconds.

Mr. SESSIONS. Mr. President, I yield 4 minutes to Senator SPECTER, please.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I believe that the DREAM Act is a good act, and I believe that its purposes are beneficial. I think it ought to be enacted. But I have grave reservations about seeing a part of comprehensive immigration reform go forward because it weakens our position to get a comprehensive bill.

Right now, we are witnessing a national disaster, a governmental disaster, as States and counties and cities and townships and boroughs and municipalities—every level of government—are legislating on immigration because the Congress of the United States is derelict in its duty to proceed.

We passed an immigration bill out of both Houses last year. It was not conferenced. It was a disgrace that we couldn't get the people's business done. We were unsuccessful in June in trying to pass an immigration bill. I think we ought to be going back to it. I have discussed it with my colleagues.

I had proposed a modification to the bill defeated in June, which, much as I dislike it, would not have granted citizenship as part of the bill, but would have removed fugitive status only. That means someone could not be arrested if the only violation was being in the country illegally. That would eliminate the opportunity for unscrupulous employers to blackmail employees with squalid living conditions and low wages, and it would enable people to come out of the shadows, to register within a year.

We cannot support 12 to 20 million undocumented immigrants, but we could deport the criminal element if we could segregate those who would be granted amnesty only.

I believe we ought to proceed with hearings in the Judiciary Committee. We ought to set up legislation. If we cannot act this year because of the appropriations logjam, we will have time in late January. But as reluctant as I am to oppose this excellent idea of the Senator from Illinois, I do not think we ought to cherry-pick. It would take the pressure off of comprehensive immigration reform, which is the responsibility of the Federal Government. We ought to act on it, and we ought to act on it now.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, I yield myself 4 minutes. I yield Senator DEMINT the remaining time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. SESSIONS. The Executive Office of the President of the United States, OMB, has issued a veto threat on this bill and said they will veto it because they believe it is not part of comprehensive reform, as Senator SPECTER said. They also go forward to note a number of specific problems with it.

They note that we:

> [M]ust be careful not to provide incentives for recurrence of the illegal conduct that has brought the Nation to this point. By creating a special path to citizenship that is unavailable to other prospective immigrants—including young people whose parents respected our Nation's laws—S. 2205 falls short.

They go on to note:

> This path to citizenship is unavailable to any other alien, no matter how much promise he or she may have, no matter how much he or she may contribute to American society.

They note that it would:

> [A]llow illegal aliens to obtain a green card before many individuals who are currently lawfully waiting in line.

They note that they can:

> [P]etition almost instantly to bring family members into the country.

By the way, it would be 1.3 million people admitted under this program, according to the Migration Policy Institute, a fair and objective—certainly not a conservative group, I will say it that way.

They go on to note that the persons would be ''eligible for welfare benefits within 5 years.'' The bill would be indiscriminate in who it would make eligible for the program through certain loopholes:

> Certain aliens convicted of multiple misdemeanors and even felonies.

They note that it would be vetoed. So that is President Bush who has been strongly favoring immigration reform. I have disagreed with him consistently on many of his ideas.

Let me make mention of a couple of things that are fundamentally important. Most importantly, individuals are not going to take the military route. I would estimate at least 90 percent would take the option of just 2 years of college without any requirement to have to attain a degree.

I submit this will strike a dagger, most importantly, in the heart of the decided will of the American people which is to create a lawful system of immigration. It would put illegals ahead of legals. It will make clear that even after our national debate and vote a few weeks ago, the Congress still does not get it; that the Congress is still determined to stiff the will of the decent majority of American citizens; that the Senate will move forward with an amnesty bill that puts 1.3 million people on a swift and guaranteed path to citizenship, ahead of millions who applied and are waiting in line lawfully, to give them every right of citizenship this country has to offer.

That is what I think amnesty is, giving every single right that we have to offer to someone as a result of illegal conduct. So before—and this is important—before we make any real progress toward a lawful system of immigration, we have less than 100 miles of the 700 miles of fencing this Congress called for. There is no workplace enforcement. A modest attempt to do something like that has been blocked by the courts, and nothing has been followed up. There has been little or no—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent for an additional 30 seconds?

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. SESSIONS. I will just conclude by saying, this would be the wrong direction. This would be to signal that, once again, we are focused on rewarding illegality rather than taking the steps necessary to create a lawful system, and at that point we can more fairly go to the American people and ask them to consider what to do in a compassionate way for those here illegally.

I yield the remainder of the time to Senator DEMINT.

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute.

Mr. DEMINT. I appreciate the motives of those who sponsored the bill. It is true that by us not enforcing our laws over many years we have created a lot of tragic circumstances. But the solution is not to reward lawbreaking and create incentives for more illegal immigration in the future.

America has asked us to secure our borders, create a worker ID system, and an immigration system that works. If we do this, if we build that foundation, then the possibility of comprehensive reform becomes a reality.

I would encourage my colleagues not to chip away in the way of trying to provide compassion through amnesty, but let's fix the system like we promised and revisit this next year. Then, hopefully, we can achieve the comprehensive reforms that my colleagues have talked about. I urge my colleagues to vote against proceeding to this bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. How much time remains?

The PRESIDING OFFICER. There is 3 minutes 8 seconds remaining.

Mr. DURBIN. Mr. President, what are we talking about? We are talking about children. We are talking about children who are brought to this country by their parents. Since when in America do we visit the sins and crimes of parents on children?

If a parent commits a crime, does that mean the child goes to prison? If a parent disqualifies himself or herself from American citizenship, does that mean the child can never have a chance? Is that what America has come

to amidst the confusion and distortion and vitriol on this debate on immigration, children such as Marie Gonzalez? She was brought to this country from Costa Rica by her parents at the age of 5. Her parents have been deported as illegals. Because I have made a special request, she has been allowed to continue to finish her college education at Westminister College in Missouri. Her goal is to be an American and to give to the only country she has ever known. Costa Rica is not her country; America is her country.

What we are talking about is turning these children out. And what sin, what crime did they commit? They obeyed their parents; they followed their parents. And for some, that is going to be a mark of Cain on their head forever in America. Is that what we are all about? Give these kids a chance. Meet them. Take time to see these children. Many of us have.

And what you will see in their eyes is the same kind of hope for this country we want to see in our own children's eyes, to be doctors and nurses and teachers, engineers, to find cures for diseases, start businesses, the things that make America grow.

Give these kids a chance. Do not take your anger out on illegal immigration on children who have nothing to say about this. They were brought to this country, they have lived a good life, they have proven themselves, they have beaten the odds. We need them.

Do not turn around and tell me tomorrow that you need H1–B visas to bring in talented people to America because we do not have enough. Do not tell me you need H2–B, H2–A, and all of the rest of them if you are going to turn away these children, if you are going to say: America doesn't need you, go about your business, find someplace in the world. Do not come back to me and tell me that we need a bigger labor pool and more talent in America.

How can we say no to hope? How can we say no to these kids when all they want is a piece of the American dream? Please, vote to proceed to the DREAM Act. I will work with Senator HUTCHISON on a bipartisan amendment. We will do our best. I think we can come up with something. Give us a chance. Give these kids a chance.

I yield the floor.

Mr. SESSIONS. Mr. President, I need to correct one statement I made previously. I said the President had issued a veto threat. He does not normally do that on a motion for cloture situation. It was a statement of objection for the bill without an explicit threat of veto.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 431, S. 2205, DREAM Act.

Richard J. Durbin, Robert Menendez, Daniel K. Inouye, Robert P. Casey, Jr., Joe Lieberman, Patty Murray, Jeff Bingaman, Jack Reed, Patrick Leahy, Charles Schumer, Daniel K. Akaka, Frank R. Lautenberg, Benjamin L. Cardin, John Kerry, S. Whitehouse, Barbara Boxer, Harry Reid.

The PRESIDING OFFICER. The questions is, Is it the sense of the Senate that debate on the motion to proceed to S. 2205, a bill to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote ''yea.''

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER (Mr. MENENDEZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—52

Akaka	Hagel	Mikulski
Bayh	Harkin	Murray
Bennett	Hatch	Nelson (FL)
Biden	Hutchison	Nelson (NE)
Bingaman	Inouye	Obama
Brown	Johnson	Reed
Brownback	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Salazar
Carper	Lautenberg	Sanders
Casey	Leahy	Schumer
Clinton	Levin	Snowe
Coleman	Lieberman	Stabenow
Collins	Lincoln	Webb
Craig	Lott	Whitehouse
Durbin	Lugar	Wyden
Feingold	Martinez	
Feinstein	Menendez	

NAYS—44

Alexander	DeMint	Murkowski
Allard	Dole	Pryor
Barrasso	Domenici	Roberts
Baucus	Dorgan	Sessions
Bond	Ensign	Shelby
Bunning	Enzi	Smith
Burr	Graham	Specter
Byrd	Grassley	Stevens
Chambliss	Gregg	Sununu
Coburn	Inhofe	Tester
Cochran	Isakson	Thune
Conrad	Kyl	Vitter
Corker	Landrieu	Voinovich
Cornyn	McCaskill	Warner
Crapo	McConnell	

NOT VOTING—4

Boxer	Kennedy
Dodd	McCain

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Mr. President, I now tell all Members, I have had a conversation with the distinguished Republican leader, and we are going to make a decision in the next hour or so as to what we are going to go to next. We were planning, of course, to go to this legislation. Cloture on the motion to proceed was not invoked. We have a number of things we are talking about, and we will make that decision this afternoon.

Mr. President, I now ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak therein for a period not to exceed 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CALIFORNIA WILDFIRES

Mrs. FEINSTEIN. Mr. President, either my colleague Senator BOXER or I have updated the Senate each day on the California wildfire situation. Senator BOXER is in California now, and I believe the President is as well. I wish to give a brief update to the Senate.

So far, this is the largest evacuation of people in California history. It is the largest evacuation in the United States since Katrina. San Diego remains the worst of the burning regions.

As of this morning, the President has approved individual assistance programs that will allow FEMA, the Federal Emergency Management Agency, to make payments for rental assistance, home repair, and pay for some home replacement costs.

As soon as the fires die down and the wind in places is easing, FEMA will set up centers. I urge Californians, who have been evacuated from their homes, who have had their homes partially

burned or burned to the ground, to go to FEMA centers and see what assistance is available to you.

This morning, on television, I heard a family speak. I think they are from Escondido. I think they have a few acres—12. They had a home. They have children. The home was burned down, but the father said: We have fire insurance.

Then I heard of another family, with four young children, and no fire insurance. The father has no relatives in the area. Fortunately, the wife has a mother with whom the family will be in the near term. But they said: We don't know what we will do.

For those people who are in the ''We don't know what we will do'' category, this is the job of FEMA, to be out there, to open those centers, and to offer help and aid to these people.

So please, Californians, use this.

More than 950,000 people have been ordered evacuated.

More than 420,000 acres have burned. That is roughly 656 square miles. If you think of it, it is a huge area.

More than 6,000 firefighters are battling 19 active fires. They range from north of Los Angeles to San Diego, and they have crossed the Mexican border.

More than 1,155 homes have been destroyed and 68,000 are threatened.

Two deaths are reported so far. I believe there are others.

Now, if the winds die down today, we will be able, hopefully, to get a handle on it. The vast bulk of the damage now is occurring in populated areas.

The good news: The canyon fire in Malibu is 75 percent contained.

The bad news: Most of the other fires are uncontained and out of control.

Interstate 5, the main artery between San Diego and Los Angeles, was closed in both directions earlier, near Camp Pendleton, because of smoke. Northeast of San Diego, the town of Julian has been evacuated.

I am particularly concerned about the coming days and the Herculean task of feeding, caring, and providing shelter to hundreds of thousands of displaced Californians. We have more than 10,000 in Qualcomm Stadium, another 2,000 at the clubhouse at the Del Mar Race Track.

The Red Cross is doing great. Thank you, Red Cross. Thank you, Red Cross volunteers. They are manning at least three shelters that I know about, and up to this point food, water, and sanitary facilities have been adequate.

I think there is a lot of food for thought for Californians in what is happening in terms of the future, and perhaps it is too early to begin to talk about it.

I do not think there is any blame to be cast on anyone. I think everyone is responding: the Governor, the mayors, Homeland Security, FEMA, and, of course, the President. I am very grateful for this, and I know I am joined by my colleague Senator BOXER. She will be back tonight, and I know she will have stories to tell on the floor of the Senate tomorrow.

But I think we need to think a little bit in the future, particularly those of us who come from local government. I spent 18 years in local government, 9 as a county supervisor and 9 as a mayor, and there is one thing I know, and that is that local governments control zoning. I think the local governments have to begin to look at their zoning about the siting of new housing developments in floodplains in the northern part of the State, around levees and the siting of large subdivisions in the path of Santa Ana winds in parched, dry areas of the State where these winds blow hard and hot.

In this case, at least up to this point, we believe power lines blew down. The winds were so forceful they actually turned large container trucks on their side, and the fires were so strong and burned so hot that they melted the metal of automobiles so that, literally, nothing was left. It could sweep off of a ridge and within minutes come down that ridge and just devour homes and take pieces of board, which are called embers, and send them a mile or two away to start a new fire.

In San Diego 4 years ago, there was the cedar fire. It destroyed 2,000 homes. And now there is this fire in the same area.

So the question comes: Would local officials be well advised to take a look at zoning codes and to begin to protect areas that are prone to catastrophic wildfire from housing developments?

Secondly, community fire plans. Community fire plans are very good. Communities can come together—they did it in the cedar fire area, and they have done it quite successfully—to be able to establish fire plans: how they keep a fire break from their house, what they can take down, the kind of ground cover they should have, the kind of roof that is fire resistant, the siding that is fire resistant—and actually get some Government help to implement these fire plans. This is now going on in the Nevada Tahoe area and in the California Tahoe area as well.

So I believe very strongly that local officials should exercise their zoning control to see that citizens in the future are protected by staying out of heavily fire-prone and heavily flood-prone areas. I will be having more to say about that in the future.

It is also pretty clear to me that we have to develop some Government-helped catastrophic insurance. I have been very concerned. Allstate Insurance Company pulled out of California, and they pulled out of California because they said: It is catastrophe prone, it is fire prone, it is earthquake prone, and we—Allstate—don't want any part of it. So they are not insuring in California any longer. This must not be allowed to happen. Companies must not be allowed to cherry-pick the United States and only insure areas that are safe and secure and say to other areas: You are on your own.

So we are kind of rethinking this area. I think the State of California, which has an earthquake authority which helps underwrite insurance in earthquake-prone areas, perhaps should also develop a flood and fire authority where they can enter into the same kind of undertaking. Just think about what it would be like to have four children standing in front of a television camera and saying: My house burned down. With it, all my possessions, all my children's possessions, all our photographs and albums and memories, and virtually everything we held dear, and we have no insurance. Think about it. Think about how you would feel if you were in that situation.

So I think there is going to be a lot of food for thought coming out of these fires in terms of public policy, and I am delighted that my colleague, Senator BOXER, is there, and I look forward to her report tomorrow. I believe we will have much more to say about the public policy that goes into the future for our State and other States that are catastrophe prone.

I will just tell my colleagues one other little story. I received a call a while ago from the head of the San Francisco Fine Arts Museum saying that they had an opportunity to bring two paintings to show in San Francisco from the Met, and the insurance for those two paintings was $8 billion, just to bring them out for show. Why? Because insurance was being denied because California was a catastrophe-prone area. This is just one other example of what is ricocheting out there under the surface now, and I think this body has to become involved. Any one of us can have a catastrophe. Any one of us can have a major bombing. Any one of us can have a major earthquake, a major flood, or major fires. I think it is up to us to see that we have in place the regulations and the laws that enable people to get the insurance they need on a cost-effective basis to be able to restore their lives and rebuild once again.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Is there any pending business?

The PRESIDING OFFICER. We are in morning business, with Senators recognized for up to 10 minutes.

Mr. SESSIONS. Mr. President, I wish to speak in morning business. Before I do, I just want to express my concern and sympathy to Senator FEINSTEIN and the people of California. It has been horrendous. I caught some of it last night, and my wife has been watching it off and on all day. It is a horrifying spectacle to see the power of that fire and the helplessness you face when the winds are right. I think it does, I say to the Senator, indicate, as she has suggested, whether we are talking about hurricanes or earthquakes or fires or floods, we can probably do a better job with policy and reaction to that. I look forward to working with the Senator from California.

DREAM ACT

Mr. SESSIONS. Mr. President, I would like to share a few thoughts on the vote we cast on the DREAM Act. I really believe it was an important issue. It went beyond what some might think in that it dealt with some issues that are important to America, what we are thinking of as a country, and why we need to get the immigration issue correct. We can do it. It is something that is important. But once again, we sort of fell into the trap of focusing on helping to meet what the needs or desires are of people who are here illegally and not focusing on restoring the rule of law to immigration enforcement. So I think the Senate leadership's commitment to moving this legislation would have been a step in exactly the wrong direction. I believe the strong bipartisan vote against it indicates that there remains grave concern about this kind of amnesty proposal, particularly in light of the fact that we have not achieved any significant progress toward enforcement of our laws at the border, at the workplace, and in other areas.

I would just say as a person who has worked on this with some determination in the last several years that I have absolutely come to believe that if we do a series of things, we can create a lawful system of immigration in America. That is important because I think a lot of people think it is just not possible, that nothing we do will work. But that is not true. If we have a good legal system, if we have a good enforcement system at the border, if we make it difficult for people to work, eliminate the job magnet and create a work card, an identification card that is biometric and can't be easily counterfeited, we could see a dramatic return to lawfulness in immigration. That would be so good for America. It would so reduce the frustration and anger that is out there.

As I have said before, I don't think people are angry at immigrants, although some of the people who support these legislative acts that I think have been bad have tried to suggest that the anger which is out there among the American people is directed at immigrants. It is really directed at us. The American people have been requesting for 30, 40 years that we create a lawful system of immigration, and Congress has continued to stiff them—just refused to do it—and talks about it and promises and passes this bill or that bill or this provision or that provision, all the time suggesting that these are going to make a difference. Then, either we don't fund them adequately, so they never really take place, or the bill is a discrete piece of legislation that never has much impact on the overall situation we have confronted and does not do any significant—does not take us in any significant way toward a lawful system.

I hope this strong vote sends a message that this Senate, prior to creating a lawful system of immigration both at our border and in the workplace, is not prepared to undertake the huge AgJOBS legislation. Senator REID has said he would bring that up again, but maybe this vote will encourage him not to do so.

The DREAM Act, which we just rejected, would have given, in short order, every benefit of citizenship—including citizenship—to 1.3 million persons. The AgJOBS bill that we keep hearing will be brought up will be an additional 3.3 million. So that is a third of the amount of people who would be provided the benefits of amnesty, a third of the number that was in the bill this summer that the American people rejected. The DREAM Act, as I said, would have provided amnesty for over 1.3 million, according to the Migration Policy Institute—not a conservative group. It would give current illegal aliens a financial bonus. They would be eligible for instate tuition, subsidized student loans, and Federal work study.

So if you have a problem with illegality—and I just want to share this with my colleagues; these are not insignificant points I am making—if you are going to create a lawful system of immigration into America, you are going to have to have some sanctions and punishments and prosecutions.

More than that, you absolutely can't give benefits to people who have violated our laws, who have gotten past our borders, and then we start rewarding them with benefits. So a number of years ago, in 1996, we said that if you are a person coming to our country illegally and you were illegally here, you at least shouldn't get instate tuition when you go to college. You ought to not be in a better position than a lawful American who might live a few miles across the State line. That was the deciding vote here. This would have reversed that—not only that; as I said, it would give them subsidized student loans, Stafford loans and other loans, as well as work study benefits. So, as they say, if you are in a hole, the first thing you do is stop digging. If you would like to end and reduce illegal immigration, stop rewarding it, please. That is what we are talking about.

So this bill I think went too far in a number of ways. I was actually pleased that President Bush's administration analyzed it and strongly opposed it and sent us a letter to that effect. So even President Bush, who strongly supports immigration into America and has supported a lot of the legislation here, opposed this bill. I think they were right in doing so.

I would note that under the DREAM Act, individuals, once they have been here 5 years and did 2 years of college without a degree being required—they got 2 years of college—they would then be able to bring their family members.

Some say: Well, they were brought here as a young child and through no fault of their own, and so they ought to be given the benefits of this amnesty. Well, that is not a uniform picture. It does tug at our heart strings, and we do care about that. It is something we are going to have to deal with sooner or later: how we are going to deal with people who came here a long time ago?

But many people came here at age 15. You only have to be here prior to age 15. Maybe they came and lived with their brothers, sisters, cousins, aunts and uncles, and then they are immediately put on a path to citizenship. They are then able, after that, to become a citizen and to bring their parents or maybe the parents are here. They would also be able to bring in their wife and children, plus bringing brothers and sisters. That is the way the system would work. I think it is not a good process. I am pleased the Senate agreed with that.

I will conclude by making some points about policy and the question of the rule of law in our country. If we are serious about securing our borders, the first thing you do is stop providing benefits to those who come illegally. That is the first and most obvious step we can take. The principle is clear: If there are benefits to breaking the law, people will continue to do it. When you subsidize something, you get more of it. If you subsidize people who are here illegally by giving them student loans and in-State tuition, you will encourage that. You will also send a message that is even more important—that if you can get into America illegally and hold on a few years, you will be rewarded in advance of those who are here legally and are waiting in line.

This is an untenable position for our Nation. A nation that wants itself to be considered seriously, a nation that respects its laws and cares about that must follow through. We cannot abandon our commitment to the rule of law. You have to be consistent. That is what sends the message that builds respect for the law, and not just in the United States, I submit; it would be sending that message and broadcasting that message to the world. If we don't do it, the message we are broadcasting to the world is that if you can bring, send or assist a teenager to come into the United States, the United States will educate them all the way through college—and we do that. We don't require you to be a legal American citizen to go to schools in Alabama or anyplace in America, nor to college. But you are not supposed to get in-State tuition if you are here illegally.

Not only would you be able to carry through with that, but you would be able to, in 5 years, get a permanent resident status, a citizenship, and then you would be able to bring your family in. That is not the right direction, I submit, we should be going in. We don't want to send the wrong message.

The question sort of comes down to, do we have the will to enforce our immigration law? Do we have the will to do it? Will we stand on principle and law and sound public policy? Or will we allow emotion and politics to further erode an already weak immigration

system and further erode the perception that we are serious about creating a lawful system. Passing the DREAM Act today would, in the wake of failed comprehensive reform that we had this summer—if we had done that before we have been able to secure our borders and before we have been able to create a lawful system of immigration, that is not the right way for us to go. It is not. It cannot be gotten around. It sends the wrong message. It will say we have immigration laws but no intent to enforce them. It will send a message that if you break our laws, not only will that be forgiven, but you will be put at the head of the line and you will be financially rewarded for it.

That is not what we have to do to create a lawful system. The rule of law in this country is important. I was a Federal prosecutor for almost 15 years. I was attorney general of Alabama. I have worked with law enforcement all my professional life. I remember distinctly talking with law enforcement officers about the sale of marijuana in neighborhoods. Sometimes local police would say: You know, these are small amounts of marijuana and we cannot focus on the small cases. We only focus on the dealers. That was a mindset a lot of police departments had. They discouraged that. I would tell them that, in effect, if you take that policy, you have legalized the sale of marijuana in that neighborhood. Not only that, you have created an unlawful system in that neighborhood and you will have created violence and instability that adversely impacts the good and decent people who live in that neighborhood. You cannot do that.

You see, there are moral and legal and practical consequences of having a legal system that is not enforced. It adds up. That is what we have done in immigration. We have looked the other way and denied it is happening, and we have let people with special interests dominate the debate and we have talked about making the system lawful, but we have never done it. That is why the American people are not happy with us. We have not been trustworthy. We have not been reliable. We have not. If we would get this system right, we could do a lot better job about making it work in an effective way. The American people want us to do that.

I have to tell you, why do people want to come to America? They think they can make a better life here. If there has been crime and instability and theft and abuse and unfairness in the system that was in the place they came from, they feel like if they come to America and they have a problem here, they can go to court and they will be protected and they can make money and build assets and people will not come and steal it from them. They can leave something for their children and they can work hard and send their children to college and they will be able to do even better. That is why they want to come here. It is all founded on the rule of law. The reason we are a unique nation—and you know that great hymn that says our liberty is in law—is that our legal system has made us great, prosperous, and free.

I don't think it is a good policy that we allow millions of people to come to our country in violation of our law. I think that sends a wrong message to them and undermines the very legal system that makes the country so attractive. I remember in the debate, Senator GRASSLEY, who is a direct speaker, a farmer from Iowa and now the ranking member on the Finance Committee, made a speech. He said he was here in 1986 as a Member of this body. He remembered the debate. During those debates, it was said that in 1986 this would be amnesty, but it is the last time, we would never do it again. He said: Let me ask you why nobody this time, in this debate, a few months ago this summer, is saying we will not have anymore amnesty again. Why are people not saying that? He said the answer is obvious. If we had amnesty in 1986, and 20 years later we have it again, nobody with a straight face can stand up before the world or the American people and say that we would not have amnesty after this one, that this is going to be the last one. How silly is that? We said that a few years ago.

So this is not a small matter. What principle can you utilize to say to a young person, or any other person who came into our country illegally today, 10, 15 years from now—what principle can you articulate as to why they should not be given amnesty when we gave it to people today? You see, this is a matter of seriousness. It cannot be ignored. I feel strongly about that. I want my colleagues to know our country needs to create a lawful system of immigration. Once that is accomplished and the American people feel comfortable about that, we can think about a way, I believe, that would be effective and compassionate for those who are here today and that is rational and that we can defend. I don't believe we can defend that today, when our system is not working.

I see my time has expired. I will wrap up and say I think we did the right thing in this vote today. Hopefully, we will continue to work toward a lawful system of immigration and, if we do that, a lot of things will become possible in the future that are not possible and appropriate and should not be done today.

I ask unanimous consent that a Statement of Administration Policy that opposes the DREAM Act, which we rejected a short while ago, be printed in the RECORD.

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

STATEMENT OF ADMINISTRATION POLICY—S. 2205, DEVELOPMENT—RELIEF, AND EDUCATION FOR ALIEN MINORS ACT OF 2007

The administration continues to believe that the Nation's broken immigration system requires comprehensive reform. This reform should include strong border and interior enforcement, a temporary worker program, a program to bring the millions of undocumented aliens out of the shadows without amnesty and without animosity, and assistance that helps newcomers assimilate into American society. Unless it provides additional authorities in all of these areas, Congress will do little more than perpetuate the unfortunate status quo.

The administration is sympathetic to the position of young people who were brought here illegally as children and have come to know the United States as home. Any resolution of their status, however, must be careful not to provide incentives for recurrence of the illegal conduct that has brought the Nation to this point. By creating a special path to citizenship that is unavailable to other prospective immigrants—including young people whose parents respected the Nation's immigration laws—S. 2205 falls short. The administration therefore opposes the bill.

The primary change wrought by S. 2205 would be to establish a preferential path to citizenship for a special class of illegal aliens. Specifically, S. 2205 awards permanent status to any illegal alien who is under 30, has been in the United States for five years after arriving as a child, and has completed two years of college or in the uniformed services. This path to citizenship is unavailable to any other alien, no matter how much promise he or she may have, no matter how much he or she may contribute to American society. Moreover, the path that S. 2205 creates would allow illegal aliens to obtain a green card before many individuals who are currently lawfully waiting in line.

Sponsors of S. 2205 argue that the bill is necessary in order to give children who are illegal aliens incentives to obtain an education. But it is difficult to reconcile that professed aim with the bill's retroactivity provisions: even those who attended college years earlier will be eligible for a green card.

The legal status that the bill grants its beneficiaries means that they can petition almost instantly to bring family members into the country. It also places them on the fast track to citizenship because they can immediately begin accruing the residence time in the United States that is necessary for naturalization. Finally, this legal status entitles the bill's beneficiaries to certain welfare benefits within 5 years.

The bill is also indiscriminate in whom it would make eligible for the program. For example, S. 2205 includes loopholes that would authorize permanent status for certain aliens convicted of multiple misdemeanors and even felonies.

The open-ended nature of S. 2205 is objectionable and will inevitably lead to large-scale document fraud. The path to citizenship remains open for

decades, thus creating a strong temptation for future illegal aliens to purchase fraudulent documents on a burgeoning black market. Moreover, the bill's confidentiality provisions are drawn straight from the 1986 amnesty law and will provide the same haven for fraud and criminality as that law did.

Immigration is one of the top concerns of the American people—and of this administration—but it needs to be addressed in a comprehensive and balanced way that avoids creating incentives for problems in the future.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that I be allowed to speak for 30 minutes as in morning business.

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

FISCAL HEALTH OF THE NATION

Mr. VOINOVICH. Mr. President, I rise today to comment on the sad state of the appropriations process, as well as our long-term fiscal health. The new fiscal year began 23 days ago, and we are debating appropriations bills that haven't even passed the Senate yet, as Government agencies operate on temporary, stopgap funding. When we Republicans were in the majority, we consistently failed to enact all of the appropriations bills before the end of the fiscal year. We enacted short-term continuing resolutions, or CRs, to keep agencies funded while we wrapped several of those bills into an end-of-the-year omnibus bill.

After the Democrats won control of the Senate, I sincerely hoped they would fulfill their promises to manage the budget better. But while the party in power has changed, the results have stayed the same. In fact, the results, so far, have been even worse. Fiscal year 2008 has already started, and we have enacted exactly zero appropriation bills.

Government-by-CR has consequences. Agencies cannot plan for the future. They cannot make hiring decisions. They cannot sign contracts. As a result, we get more waste and inefficiency from Government. We get lower quality services provided to the people. At the end of the day, we get higher spending and less accountability and oversight of the taxpayers' money.

On September 23, the New York Times reported that our failures could have a devastating effect on cancer research because scientists are waiting around to hear if they will receive grants for their innovative research ideas. The same article quoted a transportation industry representative as saying our failure could have major implications for anyone who rides in cars, trucks, trains, buses, and subways. If you want more examples of how Congress's failure to do its job on time affects ordinary Americans, I invite you to visit my Web site, where I provide several additional examples.

That is why a bipartisan group of Senators agree that we need to adopt biennial budgeting by the Federal Government, such as I had as Governor of Ohio, so Congress can get its work done on time while also conducting the oversight necessary to ensure that programs and agencies are functioning effectively.

Senator DOMENICI has been a leader on biennial budgeting for years. We should adopt it during this Congress and name it the Pete Domenici Biennial Budgeting Act as part of Pete's legacy to this country.

Putting aside our short-term failures and focusing on our long-term problems, in January I introduced the Securing America's Future Economy, or SAFE Commission Act, legislation that would create a bipartisan commission to look at our Nation's tax and entitlement systems and recommend reforms to put us back on a fiscally sustainable course and ensure the solvency of entitlement programs for future generations.

I commend two of my colleagues, the Budget Committee chairman from North Dakota and the ranking member from New Hampshire, for recently introducing a bipartisan bill that would create a tax and entitlement reform task force very similar to my SAFE commission. In fact, I saw them on CNBC recently talking about it. The only major difference is that Senators CONRAD and GREGG require every congressional appointee to be a sitting Member of Congress, whereas the SAFE commission would include outside experts. I have signed on as a cosponsor of the Conrad-Gregg proposal, and I am pleased to learn they intend to hold a hearing on the bill in the very near future. I look forward to working with them to get the bill passed.

I also commend Democratic Congressman Jim Cooper of Tennessee and Republican Congressman FRANK Wolf of Virginia who introduced a bipartisan SAFE commission bill in the House of Representatives. I have been working with Congressman WOLF for more than a year on this proposal, and I welcome Congressman COOPER's decision to join us.

This bipartisan, bicameral group has support from corporate executives, religious leaders, and think tanks across the political spectrum, from the Heritage Foundation to the Brookings Institution, and former Members from both parties, such as former Senators Warren Rudman and Bob Kerrey, and former Congressmen Bill Frenzel and Leon Panetta.

Our entitlement programs are creaking under the strain of an aging society and runaway health care costs. Our Tax Code is imploding from the hundreds of economic and social policies that Congress pursues through tax incentives and from the dozens of temporary tax provisions that wreak havoc on families and businesses trying to plan their affairs.

Neither our major entitlement programs nor our Tax Code are sustainable in the current form. The appropriations bills that we are debating this week are shrinking as a share of the budget as entitlements crowd out domestic discretionary spending. We must come together and develop a bipartisan consensus to fix these systems so our children and grandchildren can enjoy prosperity and increasing standards of living.

I want to share with my colleagues some extraordinary numbers that reveal our Nation's looming fiscal crisis. I speak out of concern not only for our generation but also for our children and our grandchildren. They are going to bear the burden of reckless fiscal policies.

Sir Edmund Burke, the father of conservative thought, said:

> Society is . . . a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born.

Unless we change course, we will break that partnership with those who are yet to be born. This grave situation can be addressed only through hard bipartisan work, and we must begin our work now, for every day we wait, the solutions become more painful.

In the simplest of terms, the Federal Government continues to spend more than it brings in. Running up the credit card for today's needs and leaving the bill for future generations should not be the policy of this country, this Congress, or this administration. It represents a recklessness that threatens our economic security, our global competitiveness, and our future quality of life. The Federal Government has become the biggest violator of credit card abuse in the world.

Comptroller David Walker has said:

> The greatest threat to our future is our fiscal irresponsibility.

He added:

> America suffers from a serious case of myopia, or nearsightedness, both in the public sector and the private sector. We need to start focusing more on the future. We need to start recognizing the reality that we're on an imprudent and unsustainable fiscal path, and we need to get started now.

Everyone in this great body should heed Comptroller Walker's warning.

Our commitments to the war on terror, to securing our borders, to educating our workforce, and to investing in our Nation's infrastructure demand tremendous resources and require long-term financial commitments. At the same time, we cannot ignore the demographic tide that will soon overwhelm our resources. We need a system for raising the revenues necessary to fund these priorities that does as little damage to the economy as possible. In short, the need for tax reform and entitlement reform has never been greater.

A historical perspective helps to highlight the gravity of our current situation.

The fiscal year 2007 budget deficit was $163 billion, but that figure hides the true degree to which our fiscal situation has deteriorated, mainly because it uses every dime of the Social

Security surplus, as well as surpluses in other trust funds, to hide the true size of the Government's operating deficit. The Social Security surplus, however, must be reserved for future retirees. As far as I know, you cannot spend the same money twice, but Congress keeps pretending that it can.

If you wall off the Social Security surplus so Congress cannot spend it on other programs, as I believe we should do, then the Government's operating deficit more than doubles to $344 billion, not $163 billion. And if you add back the money the Government is borrowing from other trust funds, such as Federal employee pensions, the deficit explodes to $441 billion, almost triple the reported deficit.

In other words, we are hiding from the public how much we are borrowing because we don't tell them about the money we are borrowing from trust funds. As a result, they see these numbers, such as the $163 billion, and they think things are getting better, but we are hiding the fact that we are spending every dime of these trust funds to keep the Government going.

The annual difference between revenues and outlays is not what is truly threatening our future. It is the cumulative, ongoing increase in our national debt that matters.

Remember, in 1992 when Ross Perot ran for President and he showed us those frightening fiscal charts? Well, I have my own charts, and I call these charts my Halloween charts. I call them that because, No. 1, the Government's new fiscal year starts in October and, No. 2, because the fiscal picture is terrifying.

Fifteen years ago, when Ross Perot was sounding the alarm, the national debt was about $4 trillion. He showed a chart projecting that by 2007, the debt would increase to $8 trillion. Well, guess what. As of 2007, the national debt stands at almost $9 trillion. Ross Perot's doomsday predictions turned out to be too rosy. In the more than 200 years that have passed between the Declaration of Independence and Ross Perot's 1992 campaign, the U.S. Government accumulated $4 trillion in debt. We have now added even more than that in the last 15 years.

This Congress has acknowledged that it will pass right by $9 trillion. A few weeks ago, Congress very quietly voted to allow the national debt to increase by another $800 billion, from about $9 trillion to $9.8 trillion.

What does that mean, $9 trillion? How do we even fathom that number? For one thing, it represents two-thirds of our entire national economy, the worst number in 50 years. For another thing, it means that each man, woman, and child in the United States owes $30,000 of the Federal Government's debt. I want my colleagues to think about these young people, the pages here today. All of you, every one of you, owe $30,000 on the debt we have accumulated.

That $30,000 only represents the debt racked up by the Government in the past. Because we continue borrowing more than we bring in, that number is increasing every single day. And those numbers pale in comparison with the budget problems looming in our future as the baby boom generation begins to retire just 69 days from now, on January 1, 2008. In fact, just last week, the first baby boomer applied for Social Security retirement benefits. Reality is setting in that this is not just a far-off prediction. It is a growing storm that threatens to overwhelm our economy if we do not act now.

Perhaps even more concerning is that 55 percent of the privately owned debt is held by foreign creditors, mostly foreign central banks. That's up from 35 percent just 6 years ago. Foreign creditors provided more than 80 percent of the funds the United States has borrowed since 2001, according to the Wall Street Journal.

And who are these foreign creditors? According to the Treasury Department, the three largest holders of U.S. debt are China, Japan, and the OPEC nations. Borrowing hundreds of billions of dollars from China and OPEC puts not only our future economy, but also our national security, at risk. It is critical that we ensure that countries that control our debt do not control our future.

If after hearing all this, one still thinks this is a problem that exists only in the distant future, consider recent projections by the major credit rating agency, Standard & Poor's. For decades, U.S. Treasuries have been considered the risk-free investment against which the risks of all other investments are judged. A good place to invest, our Treasuries. In fact, the global financial system is largely based on the notion of U.S. Treasuries as the only risk-free investment out there.

But in just 5 years, that will cease to be true. According to Standard & Poor's, U.S. Treasuries will lose their triple-A credit rating in 2012 because of the Government's deteriorating long-term fiscal position. Don't think that the world markets aren't looking at what we are doing in the United States. What kind of global economic turmoil awaits us 5 years from now when the U.S. Government is considered as risky as a typical corporation? What happens if the foreign banks decide they are going to move their money out of the United States and send it somewhere else? And what economic catastrophe awaits our children and grandchildren in 2025 when Standard & Poor's projects that U.S. Treasuries will be classified as junk bonds?

Why do we refuse to see the warning signs? A decade ago, who ever would have imagined that the Canadian dollar would be worth just as much as a U.S. dollar? A few years ago, the Euro was worth 83 cents. Now it is worth $1.42. Meanwhile, our trade deficit has gone through the roof as we Americans are forced to borrow the money we need to buy foreign products.

What is driving this train wreck? Certainly additional revenues have to be part of the solution. But this is not a problem that will be solved simply by reaching deeper into the American people's pockets. Many colleagues are familiar with Pete Peterson, former Commerce Secretary. He made it clear that ''The minute you start looking at a tax increase as the primary solution, you're confronted with tax increases that are clearly beyond anything anyone can imagine.''

Even the Democratic chairman of the Budget Committee has acknowledged that most of the heavy lifting will have to be done on the spending side. Revenues will be on the table for sure, but the coming storm will require significant changes to entitlement programs.

Here are some numbers tho help put this situation in perspective. Forty years ago in 1967, Social Security, Medicare, and Medicaid made up only 3 percent of the GDP. In 2007, their cost has tripled as a share of the economy to 9 percent. The Congressional Budget Office projects that over the next 40 years, this number could double again to 18 percent, a frightening thought when we consider that in 2006 total federal revenues accounted for only 18 percent of GDP. It reminds me of when I was Governor of Ohio. I called Medicaid the Pac-Man in Ohio.

Well, today I would refer to entitlements as the Pac-Man in terms of our national finances. If entitlement spending continues on this path, we will be required to use every cent of our Federal revenue to fulfill these entitlement obligations. Our grandchildren will have no money for national defense, energy security, education, the environment, or our infrastructure. And, they'll look back at our generation and ask how we could be so reckless with their futures.

Our Nation faces one of the most competitive environments in its history, and the question is, in this new world of global competitiveness, will future generations be able to enjoy the same standard of living we are experiencing? Will my kids, will my grandchildren be able to enjoy the same standard of living I have enjoyed? Will they have the opportunity for the same quality of life? With the largest national debt in 50 years, will we be able to remain competitive with foreign economies?

Congress must view our Tax Code, entitlement system, and the budget process as three components or pillars of the Nation's fiscal foundation, and not as separate problems. Each is linked to the other two pillars, and we must reform all three to raise the necessary revenue to fund the Government in an economically efficient manner, to keep our obligations to future generations, and to keep the size of Government to a manageable level.

We must enact fundamental tax reform to help make the Tax Code simple, fair, transparent, and economically efficient. According to the President's Advisory Panel on Federal Tax Reform, headed by former Senators Connie

Mack and John Breaux, only 13 percent—think of this, only 13 percent—of taxpayers file without the help of either a tax preparer or computer software. Since enacting the Tax Reform Act of 1986, over 15,000 provisions have been added to the Internal Revenue Code.

It is not just a matter of saving taxpayers' time and effort. This is about saving real money. The Tax Foundation estimates that comprehensive tax reform could save Americans as much as $265 billion a year in compliance costs associated with preparing their returns. Now, that would be a real tax reduction that wouldn't cost the Treasury one dime.

Mr. President, I have been working on tax reform for years. In 2003, I attached an amendment to the Jobs and Growth Tax Relief Reconciliation Act that would have created a blue ribbon commission to study fundamental tax reform. The amendment was adopted by voice vote but later removed in conference. Then, in the autumn of 2004, I offered my tax reform commission amendment again, this time to the American Jobs Creation Act. The Senate again adopted my amendment. During conference negotiations, the White House contacted me and requested I withdraw my amendment because the President was preparing to take a leadership role by appointing his own tax reform panel. I enthusiastically agreed to defer to his leadership, and I withdrew my amendment. It seemed to me that the tax reform bandwagon was finally starting to roll.

In January 2005, President Bush announced the creation of the all-star panel headed up by former Senators Connie Mack and John Breaux, and that panel spent most of the year engaging the American public to develop proposals to make our Tax Code simpler, fairer, and more conducive to economic growth. In November of 2005, the panel issued its final report. While not perfect in everyone's mind, the panel's two plans provided a starting point for developing tax reform legislation that would represent a huge improvement over the current system. The panel's proposals belong as a key part of the national discussion on fundamental tax reform.

Tinkering with the current Tax Code won't get it done. Tinkering is what has got us in this mess in the first place. It's time to rip the Tax Code out by its roots and replace it with something that works.

The President's panel had a number of great ideas that we should incorporate into tax reform legislation. For example, we should simplify the code by repealing the complex, unfair, and antigrowth alternative minimum tax. We should consolidate all the various tax-preferred savings plans into just two or three plans that average workers and families can understand and utilize. We should scale back the tax subsidies that we use to pursue social engineering and dictate economic policy, forcing Americans who fail to qualify for tax breaks to pay higher rates to make up the lost revenue.

We must create a tax system that is conducive to job creation and economic growth. We should start by addressing one of the biggest problems with the current code, and that is it rewards moving production overseas. We are taxing our exports heavily and taxing our imports lightly. Such a system sounds absolutely perverse, but that's what we have in the United States.

In fact, a constituent of mine, Tom Secor, from Norwalk, OH, who owns his own small business, came to my office and told a story about a business trip he made to China. He said he saw an editorial in a Chinese newspaper that was discussing the concerns of Americans about Chinese competition. The conclusion of the editorial was that Americans could solve most of their problems with Chinese competition if they would just reform their own Tax Code. Imagine that, even Communist China knows the United States needs tax reform to stay competitive. But for some reason we refuse to learn that lesson ourselves.

We must also understand that unless we do tax reform, the lower marginal rates, the lower capital gains taxes, the lower taxes on dividends will evaporate and we will have gained nothing in regard to fundamental tax reform and entitlement reform. And I think such reform, folks, must take into account our failure to pay for the Iraq war. This administration will have to explain why they are leaving us holding the bag and why they did not keep their promise for tax reform. They promised us.

I know there is bipartisan support in this chamber to move forward on fundamental tax reform. Some of our colleagues have already taken steps towards developing legislation that would represent a huge improvement over our current system. As I already mentioned, we have Senator GREGG and we have Senator KENT CONRAD who want to get going, so we should endorse the approach they want to take and submit legislation that Congress could consider under fast-track procedures. The proposal basically is to appoint eight Democrats and eight Republicans, including two top administration officials, and it would require a three-fourths vote for submitting a proposal to Congress.

In other words, they do their work, and if three-fourths have said this is what we want to do for tax reform and entitlement reform, we have to vote on it up or down. That is really important because you can't ask some of our colleagues to spend that kind of time on tax reform and entitlement reform and not guarantee them that if they agree on something, they will get a vote on it.

Some say to me: George, it is too late to do something. Well, it is not. And I think of Bill Bradley. Bill Bradley, in 1982, came up with a tax reform program. It took 4 years, but it was adopted in 1986. In other words, Ronald Reagan, working with Congress, reformed the Tax Code in 1986, and President Reagan is still fondly remembered as the leader who set the stage for years of prosperity at the end of the 20th century. He worked on a bipartisan basis. I think this President really has an opportunity to do something in regard to this. I think the President and the administration should say to Congress: Everything is on the table. No holds barred. I will sit down with you, and I will work on it. And you know what. Maybe we will not get it done, but at least we will start it. We will let the American people know that we understand that tax reform and entitlement reform is fundamental to the future of our country. What a nice legacy for our President, to at least say he got into the game and did something about it and didn't say you guys worry about it; it is your problem.

Mr. President, the time to act is now. When you look at the numbers, it is self-evident we must confront our swelling national debt; that we must make a concerted bipartisan effort to reform our tax system, slow the growth of entitlement spending, and halt this freight train that is threatening to crush our children and grandchildren's future.

Right now, in my lifetime, where I am at this stage, what I am worried about is the kids of America. I am worried about my grandchildren and other people's grandchildren. What is the legacy that we are going to leave those children and grandchildren? I don't know about my colleagues, but I am worried. I am really worried. I am worried about whether we are going to develop the infrastructure of competitiveness so those kids can compete in that global marketplace.

It is in our hands. Folks back home sent us here to take on the tough problems and make the tough decisions and do what is right for our country.

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.

The PRESIDING OFFICER. The Senator from Washington.

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

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

THE DREAM ACT

Mrs. MURRAY. Mr. President, our Nation was built on the belief that no matter where we start from in life, we all have a shot at the American dream. I, for one, am very proud of this reputation, and I believe it is one we should continue to promote and maintain. Unfortunately, Mr. President, somewhere along the way, amid politics and rhetoric, the belief that we

should now turn our backs on certain children in our communities has gained a voice.

Mr. President, I am here on the floor of the Senate today because I believe we need to make sure that America remains a country of opportunity for all children, no matter where they come from, no matter what language they speak at home, and no matter what obstacles they have to overcome. Earlier today in the Senate we had a chance to pay more than just lipservice to the idea of opportunity for all. Unfortunately, a few Members of this body didn't think it was an American priority.

I still believe in the DREAM Act and its power to not only give hope to many today but to make our country stronger in the future. In fact, we can still give hope to many by passing the Development, Relief and Education for Alien Minors Act. This DREAM Act was narrowly tailored bipartisan legislation that would give a select group of undocumented students the chance—the chance—to become permanent residents if they came to this country as children, are long-term U.S. residents, have good moral character, and attend college for at least 2 years or enlist in the military. Certainly, Mr. President, those are criteria that all of us would be very proud of.

Senator DURBIN previously brought up the DREAM Act as an amendment to the Defense authorization bill to address critical manpower shortages that are facing our military forces. Under the DREAM Act, tens of thousands of well-qualified potential recruits would become eligible for military service for the first time. These are young people who love our country and are eager to serve in the Armed Forces during a time of war. The DREAM Act would add a very strong incentive to enlist because it provides a path to permanent legal status.

The DREAM Act would also make qualified students eligible for temporary, legal immigration status upon high school graduation that would lead to permanent residency if—if—they attend college.

Mr. President, critics of this amendment would have you believe this is simply a matter of politics. Well, it is not. This is about real people, and I want to tell you about one of them. Recently, the Seattle Times, a newspaper in my State, featured the story of a young woman named Maria who has lived in the United States illegally since her parents brought her here at the age of 5. Maria completed high school in my home State of Washington. She did really well and was an active member of the student body. In fact, she was elected class officer 3 years in a row. Maria was accepted to the University of Washington. She graduated with a high GPA and honors in her department of study.

Maria is now in her second year of law school, and to quote the Seattle Times:

> By all rights, save one, she should have the world by the tail. But she is dogged by the questions: When she graduates, will she be able to take the bar exam? Will she be able to keep helping low-income people as she's done during her internship this summer with a non-profit legal-aid corporation?

''The DREAM Act is my only hope,'' Maria said in the article. ''I hope and I pray for it.''

Isn't Maria exactly the type of young person in whom we should be investing? She studied hard, she got good grades, she has served her school, she has served her community, and now she wants to continue to serve her community and our country—the only home she has ever known.

It is not Maria's fault that her parents brought her to America when she was 5 years old. It is not Maria's fault that Congress has not yet passed the comprehensive immigration reform we clearly need. But it is the thousands of Marias out there who are living the consequences. We do need comprehensive immigration reform, but we also need a Government that invests in our children and understands that the face of the American dream is not just one class or one race or one religion. Our Nation is filled with young people who love this country, have beat the odds, and whom we should be investing in. We will reap the return we invest.

The reason I know that is from personal experience. When I was young, growing up in a family of nine, I thought my family was doing fine. I knew we didn't have a lot of money. But my dad was stricken with multiple sclerosis when I was a young teacher. All of a sudden, seven young kids under the age of 16 didn't know if they would ever be able to go to college, didn't know if they would ever even be able to graduate from high school or how they were going to face the future.

Because this country was there for them and we had student loans and Pell grants and a country that said: We are there with you, all seven of those children graduated from high school and graduated from college. Today, this country has a Microsoft employee. They have a lawyer who works very hard. They have a young mom who stays home with her two kids. They have a newspaper reporter who follows sports around the country. They have an eighth grade teacher who has taught now, for 25-plus years, eighth grade students. And they have a U.S. Senator. That is a pretty good investment by our country for those seven kids who thought they had lost their hope. That was my family.

I know what it is like to lose hope, and I know what it is like to have hope behind you when your country steps in. That is what we are talking about with the DREAM Act—young kids out there who are just looking for a country to be behind them, who have the skills, who have the capability, who are willing to be a part of this country, to give back if they could.

This is a real issue which touches real communities and real people across our country. I actually got a letter from the superintendent of the Lake Chelan School District in north central Washington. I wish to read what he wrote. He said:

> Each year I watch students who have worked hard to be successful during high school struggle to continue their education after graduation because of their immigration status. These students are an important part of America's future and we must give them the opportunity to further their education, contribute to society, and help build the American dream for generations to come. Allowing these young people to flourish is not only fair to them, but it also adds value to our country's rich, vibrant, and diverse culture. They deserve that opportunity to succeed regardless of the outcome of the current immigration debate.

I couldn't agree more. I think it is important that we remember that this debate is not just about immigration. It really is about what type of country we want to be. It is about what we stand for. It is about what type of future we want to build.

It is pretty easy to get caught up in the specifics of the policies we debate. But I encourage all of my colleagues to not lose sight, today, as we struggle with this difficult debate, of the bigger picture, because this debate touches nearly every aspect of American life, from our economy to our security, from our classrooms to our workplaces. Most importantly, it speaks about our values.

I received a letter recently from a high school senior named Victor. Victor lives in Walla Walla, a small town on the Washington-Oregon border. Victor wrote to me and he said:

> I came to the U.S. when I was 10 years old. My most difficult and only challenge I faced since I came to the U.S. is education. I came to this country not knowing a single word of English, therefore I had to learn it as fast as I could. I was held back a grade and put into English as a Second Language classes. It took me about a year to learn it well enough to where I was able to be in classes with native speakers.
>
> I am currently part of the National Honors Society and I also take part in fall and spring sports. I have been accepted to the University of Washington and three other Washington universities. . . . My plans are to go to the University of Washington and get a degree in computer science.
>
> Unfortunately, I come from a low-income family, making it hard for me to make further plans about my education. Currently the federal government will not help with any financial aid to any noncitizen in the United States. How do you expect us to improve ourselves and succeed in this country?

I would like to ask my colleagues how they answer Victor's question, how they expect our Nation to continue to be one of hope, one of opportunity, if we close down our children's future rather than handing them the keys to success. All of our children should have the opportunity to become more successful than their parents, and none of them should be punished for their parents' decisions.

We have thousands of dedicated, motivated, and gifted students who have been forced into the shadows through

no fault of their own. Like Victor, like Maria, they have beaten odds many of us could never even imagine, and they want to serve now and contribute back to America's future. It would be our mistake to say no.

I hope my colleagues will reconsider their votes today. I hope they will say yes to the DREAM Act and yes to a richer, stronger, more vibrant American dream for all of us, for generations to come.

Mrs. CLINTON. Mr. President, more than 65,000 immigrant students will graduate from U.S. high schools this year only to see the doors of opportunity closed to them. These are gifted and highly motivated children who grew up in the United States. For these children, many of whom arrived to this country as babies, America is the only home they know. They speak English fluently, and for many it is their first and only language. Many have never even visited the country of their birth. They have been educated in our public school system. They have stayed in school and stayed out of trouble. These kids are honor students, team captains, student body presidents, and valedictorians.

Many would like nothing more than to contribute to the only country they have ever known as home. But for these children, because of their immigration status, they are often effectively barred from pursuing a post-secondary education and reaching their full potential. Through no fault of their own, they are forced to live in the shadows and denied their chance at achieving their God-given potential.

What are we saying to these hard-working students? Well I will tell you. We are saying they are not welcome in the only country they have ever known. We are telling them to go back to another country they often know little about, where they may not speak the language or understand the culture. These are children caught at a crossroads, and rather than providing them with an opportunity, we are holding them accountable for the actions of their parents.

That is not the America I know.

There is a solution to this crisis, but, sadly, the Senate today failed to act. The DREAM Act—which I have proudly cosponsored for several years—would help expand opportunities for our Nation's immigrant children. For those students who have grown up in the United States, have demonstrated good moral character, and are pursuing a college education or have enlisted in the military, the DREAM Act will provide an opportunity to earn legal status in this country.

There are many good reasons to enact the DREAM Act. In today's 21st century economy, where a post-secondary education is quickly becoming the minimum requirement for higher earning jobs, we need to provide the children in our country with every opportunity to achieve academically, both for their benefit but also for the benefit of our society. The DREAM Act would also strengthen our Nation's military readiness, allowing these well-qualified young men and women to serve their country with honor. But most importantly, the DREAM Act ensures that the promise of the American dream becomes a reality for all our children.

I am disappointed that the Senate failed to pass the DREAM Act. The enactment of this legislation is long overdue, and I will continue to fight for its passage, for all of our children and our Nation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, I ask consent to speak as in morning business.

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

Mr. DURBIN. Mr. President, I thank my colleagues for their remarks that were just concluded on the DREAM Act and for the vote in support of it. It is interesting to me that those who have taken no time to meet the students who were involved in this issue come away with a much different feeling. Once this goes beyond cliches and inflammatory rhetoric that you hear in what passes for entertainment—television and radio—and you actually sit down and hear these life stories, you just can't help but have your heart touched by them. It happened to me a long time ago, 6 years ago, and it continues to happen to me. But, unfortunately, we didn't have the votes. We had 52 votes when we needed 60. In the Senate, 60 votes is a threshold requirement.

I thank the 11 Republicans who voted with me. I will tell you, it took some courage for them to do it. It is not an easy vote for anybody. It is surely not an easy vote for them when the vast majority of their colleagues are going the other way.

I also thank the 41 Democrats who stood by me. Some of them did it with pain in their eyes, thinking about: Now I have to go home and explain this one. I understand that. I thank them for doing that.

After you have been around Capitol Hill for a few years—and I have—you try to put things in perspective about your public service. I don't believe there are many, if any, who come to the Senate with the ambition of retiring. Most of us come here with the ambition of doing something important for our Nation and serving our Nation. There reaches a point sometime in a career where risks have to be taken for important things to happen. What I did today was no great risk. I will probably hear about it back home, and I already have a little bit, but I will just say in the course of our history the important things that have occurred here in this Chamber have involved political risk and controversy—whether it is a question of voting on war or voting on issues involving civil rights and human rights. It is rare that you find a great issue that makes a career that everybody agrees with.

I say to my colleagues who joined in this effort today, thank you from the bottom of my heart, but thanks also to the thousands of young people across America who continue to follow this debate and follow this issue so closely. The toughest part was not standing in the well and being told that I lost with only 52 votes; the toughest part was walking up those stairs and facing 3 of the kids in my office. I didn't quite know what to expect. These young people have been through a lot, through no fault of their own.

One young man whose stepgrandfather failed to file the appropriate documents is 20 years old. A few years ago, he was arrested and detained in jail over Christmas and New Year's. How is that for a high school graduation present, to be told that you are illegal and subject to deportation?

Another young woman—her parents were outed as being illegal and deported. I pled with the Department of Homeland Security to let her stay in school and finish her college degree, and they have allowed her to do that. I hope they will continue to. But she doesn't know where she is going from here. She has lived in the United States since she was a very young girl and this is her country, this is where she wants to be.

Another one is literally a young woman without a country. A refugee from Vietnam, she went to Germany and then came to the United States. Vietnam is not a safe place for her to return to, and Germany doesn't want her. She is without a country. She has a bachelor's degree and no place to turn.

I didn't quite know what to expect when I went up to see them after this disappointing vote, and they greeted me with smiles and encouragement. It is great to work around young people; they have such determination and energy, and they are not going to let anything get them down. It made me feel better, and I am glad we did it even though we weren't successful. It renewed my commitment to this issue.

I am not going to quit. I don't know when the next chance will be. I know we have a busy schedule, and Senator REID was kind enough to give me the chance today for a vote, but this is an idea whose time will come because it is an idea based on justice and fairness. To think these young people would see their lives ruined because their parents were undocumented, because their parents brought them to this country, to think we would turn them away from America, saying we don't need any

more electrical engineers, we don't need any more teachers and nurses and doctors—no, we know better than that. We need them. We need all of them, and their strength makes us a stronger Nation.

So the day will come, and I hope soon, when we will have a chance for those who follow the debate so closely and to those who understood their fate was in the hands of the Senators who voted this morning.

Do not give up. We have not given up yet and you should not give up. We are going to keep pursuing this. We are in a sad and troubling moment in American history when the issue of immigration is so divisive. But let's be honest, it has always been divisive. There have always been people saying: No more immigrants, please, in this nation of immigrants.

Immigrants have to play by the rules. They have to follow the law. I understand that. But let's not turn our back on our heritage as a nation. The strength of America is its diversity. The fact that we come from the four corners of the world to call this place home, the fact that our parents and grandparents had the courage to pick up and move, rather than to be content with a life of mediocre opportunity—those are the people who made America, those are the ones who defined who we are. It is why we are special in this world, if we are, and I think we are.

We cannot let these young people go. We cannot afford to let them go. For those several of the Senators today who stuck their necks out a mile, a political mile to cast this vote, I thank you from the bottom of my heart, and these DREAM Act kids thank you too. The American dream will be there some day, and we will keep working until it happens.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IRAQ

Mr. FEINGOLD. Mr. President, last week marked the 5-year anniversary of President Bush's signing the Congressional resolution that authorized him to use military force in Iraq. That resolution has proved to be a disaster for our country, opening the door to a war that has undermined our top national security priority, the fight against al-Qaida and its affiliates.

More than 5 years after the authorization of war, America is mired in a conflict that continues to have no end in sight. Nearly 4,000 of our soldiers have died and more than 27,000 have been wounded. Hundreds of thousands of Iraqi civilians have been killed, if not more, and at least 4.5 million have been displaced from their homes. The region is more unstable, and our credibility throughout the international community has been significantly damaged.

We have spent over a half trillion dollars and stretched our military to the breaking point. Who knows how many more billions will be spent and how many brave Americans will die while the President pursues a military solution to problems that can only be solved by a political settlement in Iraq.

At the same time, al-Qaida has reconstituted itself along the Afghanistan-Pakistan border region and has developed new affiliates around the globe. Al-Qaida has been strengthened, not weakened, since we authorized military action against, and then want to war in, Iraq.

Indeed, this senseless war has made us more vulnerable, not more secure. Yet it continues endlessly with only a small token drawdown of forces expected in the coming months, and no timeline from this administration as to when more troops will come home.

The American people know this war does not make sense. They expect us to do everything in our power to end it. Now that does not mean neglecting domestic priorities, and there are plenty of those to address, but it does mean we cannot, in good conscience, simply put Iraq on the back burner. We cannot simply tell ourselves and our constituents we have done everything we could. Finding the votes to end this war is not an easy task, but for the sake of the country, we must keep trying. I, for one, am not prepared to say, in late October, with weeks to go before we adjourn for the year, that Iraq can wait until we come back in 2008. Believe me, the administration and its supporters would like nothing better than to change the subject from Iraq. Every time we insist on debates and votes on Iraq, they complain loudly that we are taking time away from the country's true priorities. But as we were reminded last November, however, ending the disastrous Iraq war is one of the American people's top priorities. It may well be their top priority, and we owe it to them to make it our top priority as well.

While the administration continues to refuse to acknowledge that we have severely strayed off course, the war drags on and on, and more brave American soldiers are being wounded or killed. But it is not only the President and his administration that is at fault; many of my colleagues here in Congress have expressed concerns about the war but refuse to take real action to end it. They have prevented Congress from acting to secure our country and restore our global leadership.

I will not stand idly by while this mistaken war continues. I will continue working to end this war and bring our troops home. I will continue looking in the days and weeks ahead for opportunities to debate and vote on ending the war, this year, and, if necessary, next as well.

My colleagues may complain, they may be inconvenienced, they may prefer to focus on other matters. But this Congress has no greater priority than making right the mistake it made more than 5 years ago when it authorized this misguided war.

I do not want to have to come to the floor again in a year to mark another anniversary of the war's authorization, and to again implore my colleagues to act. I do not want the American people to lose faith in their elected leaders for pursuing a war they rightly oppose. I do not want more American troops to be killed for a war that does not serve our national security interests.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. We are in morning business.

ALTERNATIVE MINIMUM TAX

Mr. WYDEN. Mr. President, this country is headed toward a total meltdown on taxes. I am going to spend a few minutes this afternoon to talk about how that can be cooled off for a bit.

Yesterday, Treasury Secretary Paulson warned that unless the Congress acts within the next month on the alternative minimum tax, up to 50 million households, more than a third of all taxpayers, could be clobbered with new taxes. Congress has known for some time that unless the alternative minimum tax is addressed, 23 million taxpayers would be hit with the double whammy of having to calculate their taxes twice, and typically pay a higher tax bill.

First, they are going to have to do their taxes using the regular 1040 form; then they will have to calculate their taxes using the alternative minimum tax, which has a completely different and more complex set of forms.

Having to do your taxes once is bad enough. On average, that takes something like 15 to 30 hours, depending on whether a taxpayer is itemizing. But having to do your taxes is simply bureaucratic water torture.

Yesterday's announcement by Treasury Secretary Paulson revealed that twice as many taxpayers as previously estimated could be put in bureaucratic limbo by the alternative minimum tax and face delays in processing their returns and getting a tax refund. The problem is going to get worse and worse each year, as more and more taxpaying Americans are dragged into the alternative minimum tax parallel universe of tax rules, because the tax law is now stuck in a time warp.

It was never indexed for inflation. If Congress does not act, an estimated 30 million taxpaying Americans are going to be hit by the alternative minimum tax double whammy in 2010.

The Congress has not been able to get ahead of the problem. It is simply, at this point, trying to keep the problem from getting worse. Each year, the cost of even the so-called temporary patch to keep the AMT from clobbering more persons goes up. This year it will cost $55 billion to preserve the status quo. The next year the cost will go to $80 billion. Over 10 years the cost is an astounding $870 billion.

The Senate Finance Committee, on which I serve, is trying to find a way to pay for a 1-year fix. Senators are working in good faith in a bipartisan fashion, but there is not a huge pot of money out there to pay for a $55 billion patch for the alternative minimum tax.

I will be working with my colleagues on a bipartisan basis to look at every conceivable possibility to come up with the money for 1 year of alternative minimum tax relief. But certainly the Congress ought to start, and start now, to find a clear path out of the budgetary haze. I think that path and all roads that the Congress ought to be looking at should lead to comprehensive tax reform in our country.

This week the House Ways and Means chairman plans to unveil his proposal that would repeal the alternative minimum tax as part of a larger tax reform effort. Over the summer, Treasury Secretary Paulson called for corporate tax reform.

Ways and Means Chairman RANGEL has indicated he is going to look at the issue of corporate reform as part of broader legislation he wants to consider. But I think there is an opportunity now, if the administration would engage the Congress on tax reform, and there is a model. The model is one where a Republican President, Ronald Reagan, worked with the Democratic Congress to achieve historic reform in 1986. It was based on a simple set of principles. Those principles were: It ought to be possible for everybody in our country to get ahead. It ought to be possible for people who work for a wage and people who make money through investments to get ahead.

It was a system that kept progressivity so that there was a sense of fairness for all Americans. It was a system based on cleaning out a lot of unnecessary tax breaks, clutter in the Tax Code, in order to finance reform.

That is what I have proposed to do in legislation that I call the Fair Flat Tax Act. I believe there are real opportunities for bipartisan reform, starting with the issue of tax simplification. In our Fair Flat Tax Act we have a 1-page 1040 form, something like 30 lines long.

President Bush had a tax reform commission that looked at reform. Their simplification process involved a form that was something like 34 lines long. For purposes of Government work, that is about the same thing. We could get a bipartisan agreement on tax simplification, if the President engaged the Congress fairly quickly. Certainly, the other issues will take a great deal more thought and involve more complexity, but I have been asking witnesses who come before the Finance Committee their views about tax reform. These are experts who come from across the political spectrum. They share widely differing views. But of the witnesses who came to the Finance Committee, 19 out of 20 witnesses agree with my fundamental premise that the model of 1986, holding down rates for everybody, keeping progressivity and financing it by getting rid of loopholes and breaks, those witnesses all said the 1986 model, put together by the late President Reagan and Democrats in Congress, is still a model that makes sense for today.

One of the witnesses even said:

> Baseball fans remember the moment when Babe Ruth pointed at the stands and hit a home run, and tax geeks remember the 1986 Act with similar relish.

Like the 1986 act, I start with simplification, as I have outlined. Then I look to make the Tax Code flatter to make sure that instead of six individual brackets, we would have perhaps three. I start with the rates Ronald Reagan started with, but I am not wedded to those particular rates. Ronald Reagan and Bill Bradley and others in 1986 looked at something in the vicinity of 15 and 28 percent. The point is, if Members of this body, working with the President on a bipartisan basis, want to get into this, it would be possible to look at comprehensive tax reform now. The alternatives, as the Senate sees how difficult it is to fix the alternative minimum tax and deal with various proposals as it relates to investment and hedge funds, strike me as nowhere near as appealing as dealing with comprehensive tax reform.

Many have raised the question of the issue of the differential treatment between work and wealth. It is a fact that the cop walking the beat today who makes their money on wages pays taxes at a significantly higher rate than somebody who makes their money from investments. That is a fact that ought to trouble all Americans. What we ought to be trying to do is not pit those two against each other but look at an approach such as the one pursued in 1986 so that all Americans have a chance to get ahead. That is what we are about as a nation, not pitting one group of people against another. We want people who work for a wage to have a chance to get ahead as well as pay for necessities for their families. We all understand how important investment is at a time when we face great economic challenges globally. The fair flat tax of 2007 seeks to try to ensure that all Americans would have an opportunity to get ahead and provides real relief to the middle class through fewer exclusions, exemptions, deductions, deferrals, credits, and special rates for certain businesses and activities and through the setting of one single flat corporate rate.

On the individual side, the fair flat tax ends favoritism for itemizers while approving deductions across the board. The standard deduction would be tripled for standard filers from $5,000 to $15,000 and raised from $10,000 to $30,000 for married couples. As a result, the vast majority of Americans would be better off claiming the standard deduction than having to itemize their deductions, so filing will be simplified for all Americans. We also keep the deductions most used by middle-class families, as Ronald Reagan and Bill Bradley and others who worked so hard in 1986 did. We protect the home mortgage interest break, the one for charitable contributions, and the credits for children, education, and earned income. But nobody would have to calculate their taxes twice under the Fair Flat Tax Act.

The alternative minimum tax would be eliminated. This is particularly important right now as citizens look at the challenges they are going to face next year.

What makes the Fair Flat Tax Act unique is it also corrects one of the most glaring inequities in the current tax system; that is, regressive State and local taxes. Under current law, low and middle-income taxpayers get hit with a double whammy once again. Compared to those who are more fortunate, they pay more of their income in State and local taxes. Poor families pay more than 11 percent, and middle-income families pay about 10 percent of their income in State and local taxes, while more fortunate individuals pay only about half. Because many low- and middle-income taxpayers don't itemize, they get no credit on their Federal forms for paying State and local taxes. In fact, two-thirds of the Federal deduction for State and local taxes goes to those with substantial incomes. Under the Fair Flat Tax Act, for the first time the Federal code would look at the individual's entire tax picture, their combined Federal, State, and local tax burden, and give credit to low and middle-income individuals to correct for regressive State and local taxes.

What this all means—and we had Jane Gravelle and her excellent team at the Congressional Research Service work on these numbers—is that the typical middle-class family with wage and salary income up to approximately $150,000 a year would see tax relief in a way that would not cause the Federal Government to lose revenue.

Finally, by simplifying the code, there are other benefits. With a simpler system, it would be harder for individuals to take advantage of the system and easier for the Internal Revenue Service to catch those who do cheat. At present, there is a tax gap between taxes owed and collected of over $300 billion per year. Chairman BAUCUS and Senator GRASSLEY have done yeoman's work on this issue. I believe the Fair Flat Tax Act can make, in addition, a significant dent in dealing with the tax gap, raising a significant amount of revenue from a source that would not

increase taxes. The Fair Flat Tax Act, as it relates to the tax gap issue, is a win for all Americans except for those who have been cheating the system.

I am obviously aware that the clock is ticking down on this session of Congress. Certainly, by early next year, in the thick of a Presidential election, something such as this is daunting. But it is time for Congress to get started now on what witness after witness after witness in the Finance Committee is saying; that is, the urgent need, after scores of tax changes, to get about draining the swamp.

To give you an idea of what the numbers are with respect to tax changes, the latest analysis shows we have had something akin to 15,000 tax changes. That comes to three for every working day. Even regional IRS offices, according to practitioners I talk to, cannot agree among themselves as to how to apply this increasingly complicated Tax Code.

It is time to get started. The Bush tax cuts expire in 2010. Certainly, that is going to cause additional confusion and chaos for taxpayers. With the problems the Congress is wrestling with now, such as the immediate crunch of the alternative minimum tax and with the hammer poised to come down in 2010 with all the other expiring tax laws, there is a strong incentive for members of both political parties to come to the table and get to work on tax reform.

I hope colleagues will look at the Fair Flat Tax Act as a way to start the debate. I don't consider it the last word on this extraordinarily important subject, but I hope we can begin the debate now.

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

The PRESIDING OFFICER (Mr. CARDIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. 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. LOTT. Mr. President, what is the order of business at this time?

The PRESIDING OFFICER. We are in morning business.

Mr. LOTT. Until what time?

The PRESIDING OFFICER. There is no time limit.

AMTRAK

Mr. LOTT. Mr. President, while we are in this morning business period and in anticipation of going to the next legislation, I wish to make some opening comments about what happened here and make a plea to my colleagues on both sides of the aisle, but particularly my own side of the aisle, that we not object to going to consideration of Amtrak legislation.

I have been working on this issue for several years now. I think it is an important issue. It is an important part of our transportation system in America. I believe that for the future development of our country, for the mobility of our country, for the creation of jobs, the maintaining of jobs, for safety, security, and access, we should pay attention to infrastructure in America, and lanes, planes, trains, ports, and harbors. This is critical to our future economic development and to our American lifestyle.

I have been working for years to upgrade and improve the Federal Aviation Administration, the air traffic control system so we can have less congestion in the airways and fewer delays, and modernization. We are still working on that. We did get FAA reauthorization a few years ago. Now it is back up but, unfortunately, stalled right now. We did pass a highway bill a few years ago that had many good things in it. But here is my point: You can only build so many lanes until you can't build any more. You can only have so many planes in the sky until you can't have any more. So what is the other alternative? Trains.

Now, I am not from a State that is hugely dependent on the rail passenger system. We get some of the benefits of it. But part of the problem is we don't have enough access, enough opportunities in that area, or we have delays and problems such as that. Why do we have delays? Because we haven't modernized the Amtrak system. Because we have not worked through the Transportation Department to put in some reforms, decide what is needed in terms of money, and how to get more capitalization. We haven't done the reforms.

I was pleased to be involved the last time we did some Amtrak legislation. That was several years ago. I stood right in this very spot and told my friend JOHN MCCAIN from Arizona if it didn't work and if Amtrak didn't do a better job, I would eat it without salt. Well, I guess I should have probably eaten it without salt later on. It didn't do everything I hoped it would. But what is the alternative? Do we want a national rail passenger system or not? I think we do. I don't mean only on the Northeast corridor, although I love the Northeast corridor. I have been delighted to work with my friend and colleague from New Jersey, Senator LAUTENBERG, on this legislation, because I want good Amtrak service between Washington and New York City. Frankly, I would rather ride the Acela to New York City than the shuttle, the airline shuttle. You go to the airport; you wait; you are delayed. You get on the train. You ride the Acela. You do your computer. You are not crowded. It is nice, clean. It works. You can get a little something to eat, and you arrive in New York City.

I realize Acela is one of the best in the country, but we need to do more. In fact, putting money in it—and by the way, not enough—year after year we are starving it to death and then we are saying, Why didn't it do better? It is because we haven't given them more opportunities, we haven't had more requirements, we haven't had reforms. I tried for the past 2 years to get this legislation up. We had some objections. We had some Senators who wanted to offer amendments. My attitude is: Fine. If you have amendments, let's go with them. Administration: If you have some reforms, fine, let's do it. But we need to get this thing done.

Now here we are, we have a different majority. Senator LAUTENBERG is the chairman of the committee. But basically, this is the bill he and I put together 3 years ago. It is time to do it. It is not perfect. It has some reforms in it. It has some requirements in it. By the way, more people are riding Amtrak, and they have more income. They are doing better. If we give them more incentives, if we get them to close some of the routes that are never going to be profitable, they are not going to work, it would be even better than that.

I am not going to give my full opening speech now, even though I sound like it. I am saying to my colleagues, we should not object to the motion to proceed on every bill, and filibuster the motion to proceed. That is bad business. Do it judiciously? Yes. If you want to slow this place down time after time after time after time, yes, we can do that. But I stood here on the floor earlier today and last night and said: If the Senate will do the right thing on this judicial nomination, Leslie Southwick, that will be a step forward to show that this place can work together. We can be civil. We can be less partisan, and there will be some benefits. I am standing right here right now saying this is the next step. Let's not tangle this bill up because we are not ready, or because we may not like it. You don't like it? Vote against it. You want more? Bring your amendments. Let's get this done. I hope my colleagues will not try to block the motion to proceed. Senator REID is going to ask unanimous consent that we go to the bill, and I hope and pray that if it is objected to, he is going to file cloture and he is going to make us eat it, because we ought to take this up and deal with it. If we want to kill it, shoot it down, but doing nothing is unacceptable.

The Senate has become very proficient at doing nothing; not just this year, but last year and the year before. We paid a price, because we didn't get anything done in the previous 2 years. Are we going to do it again or can we do something for the American people? This is one way we can do it.

So I make that plea and I hope we can get something worked out when we get on this bill. I will not be a party to try to ram it through so quickly people can't get their amendments ready.

Mr. LAUTENBERG. Mr. President, will the Senator yield?

Mr. LOTT. I will be glad to yield to my distinguished colleague and leader on this effort now, and to my friend from New Jersey, and I look forward to working with him on this legislation.

Mr. LAUTENBERG. Mr. President, the obvious obstinacy at getting this on the floor seems to ignore the fact that you almost can't get anyplace from here or there without enormous delays, without enormous congestion, and with pollution problems, et cetera. Is it understood, I ask the distinguished Senator from Mississippi, how difficult it is for the country right now? You can't get an airplane that will leave on time or arrive on time with any degree of certainty. I, for instance, travel from here up to Newark or to LaGuardia Airport, both of which are convenient to my home in New Jersey, and a flight that takes 36 minutes of air time takes 2½ hours to get there, more often than not.

So do the Senator's friends understand that this is a crisis moment for this country of ours? We have seen incidents so many times where the absence of a rail system—for instance, we threw away billions of dollars some years ago because nuclear powerplants that were built, ready to operate, couldn't get a license to go because there weren't satisfactory evacuation routes and it had to be by rail because the highways were unable to provide for it.

If we look at Katrina and we see how much better we could have done if rail was sufficiently employed down there, and we didn't get it, and people were jammed and stuck in there.

There is no difference in what—when you cross the aisle, when you ask the question: Do we want to get things operating better? Do we want to facilitate our corporations to operate efficiently? Do we want to provide the jobs that go along when you have facilities for travel in place? Would people do better if they could travel by rail rather than have to get in a car and pay who knows what for gasoline? It is predicted that oil is going to go up to $200 a barrel one of these days. Well, Heaven forbid that does come. We are not going to close shop and say we will go home and rest.

Do the Senator's colleagues recognize that those who don't want to let us get this train of theirs started, do they realize that these problems are in front of us, I ask?

Mr. LOTT. Mr. President, let me say to the distinguished Senator from New Jersey, I am sorry I went ahead and spoke first, because you are chairman of the committee and you have been providing real leadership in trying to get this legislation brought up. I did it because I wanted to make a plea to my colleagues on this side of the aisle to let this move forward. Let me emphasize that I have no indication there will be objection. They want to take a look at it. They want to make sure they will have a chance to offer amendments or substitutes. I have assured them we will work with them. I believe we are going to be able to clear the hurdles, but I wanted to make a public plea so we could get on this legislation and guarantee the Members that their amendments will be considered and, in fact, in the past, when we worked together, we have accepted amendments and fought some of them, and we had votes. It is a novel idea in the Senate, to have a debate and have a vote.

But I want to say again I have enjoyed working with Senator LAUTENBERG. This is a lot bigger issue in New Jersey and along the eastern seaboard, I guess, but more and more it is important on the west coast, it is important to the Chicago area, it is important all over America. This is not about one region or the other region, or trying to accommodate business or labor; this is about American people. So I think my colleagues, hopefully, are going to realize that we ought to do something about Amtrak, and this is the way to get it done.

I thank the Senator for his question.

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

Mr. LAUTENBERG. Mr. President, I want to respond to what my friend from Mississippi has said. We have worked together in the past and we have gotten things done in the past. We know that Amtrak finally has come into its place. We have a lot of work yet to do when you think about what travel is like these days in all forms. The highways are too congested. The airways are getting even more congested. The expectation is that delays are going to become even longer. So I hope those who want to discuss it and those who want to amend it—the Senator is right, we should consider amendments. As a matter of fact, I think it is good if we do hear from people and see what problems they foresee. But we can't get it done unless we talk about it, unless we prepare for a vote.

Are we about to say to the American people: No, continue to suffer? Stay stuck in traffic? Stay stuck at the airports? Time will take care of it? All you have to do is spend more time away from home, away from your job and away from things you might enjoy.

American people, get used to spending more time away from home in useless activities, such as listening to an idling engine or listening to the car radio or something like that. We cannot function this way.

Now the time is upon us where we have to do something about this. I believe this is an opportune time. I know a lot of colleagues on that side of the aisle want to see this happen. After all, we touch 40 States across the country. Wherever you look and see where there has been new or upgraded rail service, people are responding to it: On the west coast, and some of the routes out of Chicago—people are responding to it, and they are getting on trains.

I use the trains frequently. The other day I got on an Amtrak train here, and it was a full train with barely a seat left. So people are demanding it. If we look at the example that exists, let's say in Europe or in Japan, and see what happens. When I wanted to take a plane one time from Brussels, where a NATO meeting was ongoing, to go to Paris, I tried to get a flight. They said: You cannot get an airplane from here because we go by train—200 miles in 1 hour and 20 minutes. Imagine what it would do for travel in this country and business progress.

So I am ready whenever my colleague and our friends on that side of the aisle are ready. I am told we are all set here and ready to go.

Mr. LOTT. If the Senator will yield, since I have worked with the Senator on this issue, some of my colleagues have taken to calling me Senator ''Lott-enberg.'' I know there is a bit of a regional difference. It is not quite as crowded in our neck of the woods, so you might come on down South and it would be a lot less crowded. However, I would like for them to be able to get there on Amtrak, to be able to catch that train in Washington or in Newark and run on down and come through Atlanta down to Jackson, MS. I think they would enjoy it once they got there. I invite the Senator from New Jersey to take the ride to Jackson, and we will show him around down there.

Mr. LAUTENBERG. In response, A, I would like to do it; and, B, I wonder if people realize how many new lines are being dreamt up—I say ''dreamt'' up because unless we get the base going, nothing else is going to happen.

I hear from colleagues in other States besides mine who say, you know, we could use train service here or there. We have seen something in New Jersey that exemplifies the value of rail service. We had a line open from the southernmost tip of our State to Trenton, our State capital. The ridership, at first, was very low. Before you knew it, we began to see buildings, factories, warehouses, et cetera, being built along the transit way. And now the area is beginning to prosper where it was just dead and nothing was going on. That is what we have seen.

There is a lot of talk about something called transit villages. In New Jersey, the most crowded State in the country, we don't think about villages really, but we have transit villages centered around a rail hub. People know they can get back and forth, and companies know employees can get back and forth to work and they can run an efficient operation.

So this is a point in time when opportunity presents itself, and we ought not to miss it. If we cannot see it, we ought to let the public see that. Certainly, at this point in time, we ought to be able to discuss it. We should not have any obstruction to bringing the issue to the floor of the Senate. Let's get out in this public forum and have a discussion and see what we can do or whether there are problems that can be dealt with or maybe we can go to some other kinds of travel—I don't know what kind, but we at least ought to take the one nearest to us that is the best option.

With that, I yield the floor.

Mr. LOTT. Mr. President, we are working on when we are going to be

able to get this up. I have a couple of points. One, we have a catch-22. Our Members want to make sure they have a chance to offer amendments, and we want to do that. At the same time, our leadership on both sides has to pay attention to when and how we get it to a conclusion. I think it is incumbent upon our leadership from the committee to work with Members to get amendments but also not to let this become a punching bag and have Members throwing everything out but the kitchen sink.

I believe we can move this through in a reasonable time. My attitude is, when Senators have amendments, come over and offer them. We will debate them and then have a vote. We will not shove it over until 9 or 10 o'clock tomorrow night. I think there is hesitation on both sides of the aisle, and we have to work through that. But we have done this before. We did this bill 2 years ago, or so, and we got 90-something votes. So we can do that.

Mr. President, one other observation: As I have worked on this, another part of the equation of having a good national rail passage system is encouraging our States to be able to do more on their own and build lines like we have in San Francisco to the L.A. area—there is incentive to do more—and at the same time, not telling poorer States that they have to do way more than they are capable of doing.

Also, a couple of weeks ago, I thought about this bill. I was at Big D's Barbeque at Pocahontas, MS. The City of New Orleans, a sleeper Amtrak train, came whizzing by Big D's Tee Pee. They were ballin' the jack headed to New Orleans. It had about six or eight cars, which is relatively short. But the important thing was that they were going lickity-split.

If we are going to be able to get these trains, in a reasonable way, where they want to go, part of the problem is a problem the freight lines have. If they are going to get off on a side track and let the Amtrak go through, they have to build side tracks. We need more lines all across America. Union Pacific, Burlington Northern, Santa Fe—they need to build more lines across this country. We need to encourage the freight lines to build more capacity, more lines, and more side tracks, so they can work with Amtrak, so that Amtrak is not adding to the cost of doing business of the freight lines. So I am looking at that equation too. We don't want a conflict between Amtrak and freight lines. We want them both to be able to make a profit and deliver the goods and services to the American people.

So we are working on that side of the equation too, to make sure that Amtrak has a way to be on time.

Mr. LAUTENBERG. The Senator from Mississippi remembers that yesterday we had a hearing on freight railroads, and that traffic is going to be up some 44 percent by 2020. They are concerned about how to get it done. At the same time, we have to provide for passenger rail service. This is a good time for all sides to get together and start moving.

Does the Senator remember this bill was processed on the Senate floor last year? We had a vote that was 93 to 6. I lost a year. It was actually in 2005.

Mr. LOTT. Yes, I think that is right.

Mr. LAUTENBERG. The vote was 93 to 6, I remind everybody. This was popularly supported, totally understood. We were on our way to the next station, and it just didn't work out. Things were a little tumultuous, to put it mildly. Now there is a cooler moment to think about it and present it. We have time available on the floor, and I think to waste it would be a terrible loss when we can discuss this important problem with a solution for the country.

Mr. LOTT. Mr. President, I thank my colleague. The occupant of the chair, the Senator from Maryland, I suspect, supports this too. I am ready to do business when we get the go-ahead to take up this legislation.

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. MARTINEZ. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

Mr. MARTINEZ. Parliamentary inquiry, Madam President: Is the Senate in morning business?

The PRESIDING OFFICER. The Senate is in morning business, with 10-minute grants.

Mr. MARTINEZ. I wish to speak for a period of 10 minutes.

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

CUBA

Mr. MARTINEZ. Madam President, in the last couple of hours, the President took the opportunity to speak at the State Department on the condition of relations between the United States and Cuba. For me, as an immigrant from Cuba, born on that island and an immigrant to this country, it was a very moving and transcending kind of moment. The President, for the first time, I think, in many years that any American President might do this, detailed the problems in Cuba and the cruelty of that regime toward its own people.

The President put a human face on the suffering of the Cuban people by inviting to the stage with him three families of Cuban political prisoners. These families, each with their own tale of hardship and suffering, were representatives of what I think is the now almost half century long suffering of the Cuban people. He spoke about their plight, the unjust nature of their relatives' incarceration, which is nothing more than a representative sampling of what the Cuban people have suffered over so many years of brutal repression.

He also detailed the many failed promises of the Cuban revolution toward its own people. He spoke of the failed promises; that the revolution would bring a better life and so many other things that have simply not occurred. He detailed frankly, the economic misery the Cuban people suffer from today, the fact that housing is deplorable and difficult and that many families have to, obviously, live together. He spoke about the irony that while the Cuban system touts the greatness of their medical prowess; in fact the Cuban people do not have access to the kind of quality medical care that medical tourists can obtain.

Just as an anecdote, sitting next to me was a foreign diplomat who mentioned to me that she had been to Cuba for eye surgery some years earlier. I mentioned to her that at about that same time—I think she said that was in 1992—I had a relative, an uncle of mine, whom we had brought to this country so he could have eye surgery here because he couldn't get it in Cuba. So foreign visitors, for dollar amounts, can get first-rate medical care in Cuba, but it is not always available to the Cuban people.

He spoke about the oppression of those who seek to be a voice for change and the fact that many of those in prison, these patriots, are in prison for nothing more than having a fax machine in their home or a willingness to speak and talk about the human rights conditions on the island. The fact is that each of these brave souls takes great risk in order to facilitate the opportunity for Cubans to speak to one another, for the opportunity to speak in freedom, the opportunity to freely express an idea. These are things which are abhorrent to the Cuban regime.

The President made an offer. He made an offer that the United States, through non-governmental organizations and religious entities, would send computers and provide Internet access to the Cuban people, if only the Cuban Government would allow the average, everyday Cuban—what today is part of international trade, commerce, and communications—Internet access. Internet access in Cuba today is only allowed under the strictest of Government authority, and it is a way in which the Cuban people are held back from achieving the promise that the 21st century has for so many people, in so many other places.

He also spoke about the opportunity for Cuban children to be a part of a scholarship program and all they would have to do is to be freely allowed to participate.

He spoke to the international community using the example of the Czech Republic, Hungary, and Poland, which have, with such determination, stood clearly on the side of freedom, stood clearly on the side of those in Cuba

who are not satisfied with the current conditions but look to the moment of their liberty, look to the moment of freedom. These new democracies in Europe, who still well remember the days of their oppression at the hands of another Communist dictator, are very much involved in helping the Cuban dissident movement, in allowing them to come to their embassies and just stand in their lobbies and have access to a magazine or a newspaper or a book that would otherwise not be permitted by the Cuban authorities.

We can all do more. The United States has been at the forefront of assistance to a free Cuba, but no doubt many other countries, many other capitals across the world could well heed the example these Eastern European governments are today giving to the rest of the world as they stand clearly on the side of freedom.

The fact is that the most important take-away, if you will, that I heard today in this very moving, emotional, and I thought historic speech was the fact that the President today said that in the future of Cuba, we should be clearly on the side of freedom and not on the side of stability.

You see, the Cuban people are in the throes of change. Change is happening on that imprisoned island today, and that change can take one of several forms. One of them would be for us to side with stability and more of the same, for the sake of stability. The other would be to chart that uncertain path that freedom often brings but a path that ultimately leads to the opportunity for free people to live freely, that opportunity to simply stand in a town square and speak your mind.

So often people ask me: Have you ever been back to Cuba?

And I say: No.

They ask: Will you ever go back?

And I say: Yes, I will go back the day I can stand in the park of my little town where I grew up, in Sagua La Grande, Cuba, and stand there and freely express my thoughts or the day I can pick up a book and read it freely.

Those are the times and those are the conditions under which the Cuban people will really begin to taste freedom.

All of Latin America today in one measure or another is moving to the march of democratic governments and clearly enjoying the fruits of a free market. The free-trade agreements currently pending with Latin American countries will only continue to expand the wave of prosperity that is today sweeping that continent. But one example remains, one example of absolute tyranny, one example of an old-fashioned, brutal military dictator, and that is Cuba.

The fact is, I do believe freedom is on the march and that freedom can come to the Cuban people. I hope we can continue to encourage the voices of freedom within the island.

The President spoke to the military, he spoke to the governmental structures of the Cuban Government, and he pleaded with them to side with the people of Cuba who seek to live free and not use the elements of repression at a critical and decisive moment in the future of Cuba.

I have no doubt that many of those who today might have been, at one time, supporters of the Cuban regime, who believed in the promises of the revolution, as at one time or another all of us did, that they would now understand that this failed system has a limited lifespan and that it is time to side with the forces of freedom and not with the forces of repression and tyranny. For those who have no blood on their hands, they do have a future in a free Cuba.

One of the more touching moments today was when the President discussed dissidents, such as Oscar Elias Biscet. Oscar Elias Biscet is a physician who has been sentenced, to I believe 20 years, for merely speaking and expressing his own beliefs and his desire to see a change within Cuba. He is in deplorable conditions, in rat-infested conditions, needing medical care and getting none. He is the face of the future of Cuba. He is the face of the dissidents in Cuba. He is a young man, born and raised under the Castro regime. He does not belong to any rich families of the past. In fact, he happens to be an Afro-Cuban. He is a physician. He believes in life at all stages, from conception to death, and that was one of the big sins for which he has been punished in Cuba.

So I would say that today is an important day in the history of U.S. relations with Cuba. I hope it will also be a historic marker for the future of the Cuban people. The President spoke about a popular song, both in Cuba and outside, and it basically talks about ''our day is coming.'' I don't think there is any doubt that the freedom of the Cuban people is coming and that our day, without a doubt, is coming.

I look forward to continuing to help the dissident movement inside Cuba in any way that we can, to continuing to help the voices of freedom that so much yearn for an opportunity. I believe the President made it clear that the standard by which we should judge our future relations with Cuba is the way in which the Cuban Government treats its own people; by releasing political prisoners, by allowing freedom of expression, by allowing freedom of the press, and by ending these despicable acts of repression or repudiation, which are nothing more than a government-organized gang of neighbors ganging up on someone who, for whatever reason, seems to be out of step with the orthodoxy of the Government of the day. These are horrible beatings and harassment that cut across age groups. It is not just about the head of the household who has expressed himself in a way the Government deems negative or maybe being guilty of that ill-defined crime of dangerousness. But the children of that family suffer, the elderly, and all of the members of any family who is chosen for these repudiation acts. They all suffer. Those are despicable acts. Those have to end—that kind of repression—and the freeing of political prisoners. These simple things.

When people talk about what is going to be the future, the future is in the hands of the Cuban people. I know the United States will stand clearly on the side of freedom. That is, what makes our country so very different and so very special, is the fact we do put freedom first; that we do put a value on every human being, every human life, and the dignity of each one; that we do understand there is a difference between freedom and oppression and we choose to stand clearly on the side of freedom.

I will always be proud to stand with our President, who so clearly spoke today about his desire to stand on the side of freedom. I hope many of my colleagues in the Senate will take the time to read the speech the President gave today. If you care about Latin America, if you care about Cuba, if you care about the future of that oppressed island, I think this was a very good moment.

I see my dear colleague from New Jersey and fellow Cuban American here on the Senate floor, and I know we share the same passion for the opportunity for Cuba to be free. This isn't a partisan issue between us; this is about the right of the Cuban people to live freely. I say to Senator MENENDEZ that it was a momentous speech and I think one that will be a historic marker, as I said, in the relations between our countries and the opportunity for the Cuban people to live in freedom. I think it was an important moment, and I hope my colleague will have an opportunity to see it and read it. It was the kind of speech so many of us have wished for and were delighted to hear today.

Madam President, I appreciate the indulgence of the Chair, and I yield the floor.

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

Mr. MENENDEZ. Madam President, I come to the floor primarily to speak about a vote we took earlier today on the DREAM Act. I do appreciate my distinguished colleague from Florida's comments about the President's speech. We look forward to getting a further focus on what the President had to say. We certainly appreciate any movement, any policy that tries to create an opportunity for freedom for the people of Cuba, for them to be able to achieve what we enjoy here in the United States—the right to choose our Representatives, to worship at the altar that we chose freely, to be able to associate with others freely, to be able to protest when we believe our Government is moving in the wrong direction. We have freedom of the press, freedom of religion, freedom of speech. All of those things are denied the Cuban people.

Certainly, the efforts the President speaks about, trying to move in the direction that creates that moment in which those freedoms can be fulfilled for the people of Cuba, we applaud.

THE DREAM ACT

Mr. MENENDEZ. Madam President, I came to the floor to talk about the earlier vote on the DREAM Act. I have heard some of my colleagues define it in ways that make me believe the future of any other form of immigration reform is going to be incredibly difficult. We did not get to cloture and cannot move to have a full debate on the bill and a vote to move in a direction in which we could give young people in this country—who did not choose to come to this country themselves, as they were brought here by their parents at a young age, and who in many cases could achieve great success for the Nation—an opportunity to earn their way to a process of legalization. To see that those hopes have been snuffed out by the votes that were taken here leads me to believe the future of any other form of immigration reform is going to be incredibly difficult.

It was not the decision of these children to come to the United States. It's hard to make a decision about where you are moving to when you are in a stroller. If we cannot give hope to children, if we are going to insist that the children be responsible for the sins of their parents, in making the decision they did to come in an undocumented fashion to the United States, then this is not the America I know.

If, by no choice of your own, you came to this country and have now grown up—for many of those children I have met across the landscape of the country have grown up as Americans, and thought of themselves as Americans—and then came a point in time in which they wanted to go to college or enlist in the Armed Forces, they found their status was not that of an American. They wanted badly to either serve or to be able to fulfill their God-given abilities by achieving a college education. They had to earn all of this. All we need to do is give them a chance.

I have colleagues who represent a lot of sectors, and they want people to come to this country and use their human capital to do some of the toughest jobs that exist in America, to bend their backs and be on their knees picking crops for Americans to be able to consume.

There are some who suggest we are going to even change the nature of what AgJOBS is, so even though you come year after year, you bend your back, you give your sweat, you do some of the toughest jobs no one wants to do—we will not give you any pathway to earn legalization.

I don't know how those who want to see the AgJOBS bill move think it can move when we turn down children who had no choice of their own. Our friends in industries that request H1–B visas say we need to bring people from other countries in the world to America because we don't have enough human capital here to meet our Nation's high-tech demands, but in that case it doesn't make much sense to refuse to take advantage of the proven capacity of so many children in this country, some of whom have graduated as valedictorians and salutatorians from high school. A vote against the DREAM Act says, we are not going to use that intellect; no, let's bring in somebody from outside the country to perform that service.

Those in the service industries, such as the hotels and motels of our cities and highways, who want people to clean the toilets and the bathrooms, or those who want workers to pluck the chickens at poultry plants or work at seafood establishments and the list goes on and on—let's give those people visas to come to this country and let's use their human capital. I am for any American who wants to do any of those jobs first and foremost. Whatever is necessary to create that opportunity, I am for. But in the absence of it, I wish to challenge some of our colleagues who talk about the big growers and their needs, who talk about the high-tech industry and their needs, who talk about the hotels and motels and poultry plants and seafood plants—and then vote against these children. I want to hear how they can justify the differences.

What the DREAM Act said was if you had no choice, you made no choice in coming to this country—your parents brought you here, you grew up here and you have been a good citizen, you have lived the type of life we want all our young people to live in terms of being good citizens, being of exemplary character, being individuals who have the intellectual capacity on their own to get into college—we want to give them the opportunity to have the status to do that. I would rather have our kids going to school than hanging out on the streets, but I guess we would rather have them hanging out on the streets rather than having them get an education and serving our Nation.

I don't understand how a military that is straining, in terms of the volunteer Armed Forces that we have, that has now downgraded whom they are willing to accept in the Armed Forces to include people who have criminal records and those who are high school dropouts, we will have those people serve, but we will not have young people who are incredibly talented, have no criminal record whatsoever, exemplary individuals, and some of them, some very smart ones, but who want to serve America because they believe themselves to be Americans—oh, no, let's not have them serve in the Armed forces of the United States. By virtue of that service, including the possibility that they could die on behalf of their adopted country, no, let's not give them that opportunity either. We would rather take people who have criminal records. We would rather take people who have not even finished high school.

The first U.S. soldier who died in Iraq was someone who was not a U.S. citizen. Yet he died in Iraq in the service of the country he loved as his own.

I believe there are going to be challenges going forward. As Members of the Senate who represent different parts of our economy come forth and say, ''I need to help the farmers because we need to get people in those fields, we can't get anybody to do the job;'' or, ''I need to have someone at that poultry plant and make sure that we are able to pluck chickens and go through the bone-breaking job, their hands are cut from the processing,'' I want to see how, in fact, that discussion is going to take place.

We will certainly be here to challenge our colleagues to think about how can you promote those desires and yet snuff out the hopes and dreams and aspirations of a young person who did not do anything wrong. On the contrary, they want to do everything they can to serve this country, and we say no to them. Yet we will bring in people from other parts of the world to do these things. It is going to be very difficult. It is going to be very difficult, without reform of the process, to make sure we are not outsourcing jobs in the process, without labor protections. I think it is all going to be very difficult.

I hope our colleagues will think about reconsidering their position on the DREAM Act because they say it is an ''amnesty.'' Everything is amnesty to them. I can't wait until the AgJOBS bill comes up. I am sure we will get cries of ''amnesty.'' I can't wait until the H–1B issue comes up. I can't wait until the H–2B issue comes up. I am sure it will be cries of ''amnesty.'' So those sectors of the American economy will be halted, and we will not get the productivity we need because I am sure they are not going to find a way to say that it is not ''amnesty.''

At end of the day, I am looking forward to those debates as we move forward. I believe we have set a precedent in today's vote that people will rue as they try to understand the essence of some of the economic sectors of our country that are going to need help, have needed help, and need help today.

We should, hopefully, have a little introspection and figure out whether a process in which you have a journey to go through, in which you have to start with an exemplary record, in which you have to be willing to meet all types of challenges, in which you must give of yourself to the Nation or you must be able to create personal achievement that ultimately will be of value to the Nation—whether snuffing out that opportunity is in the national interests of the United States.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Madam President, I ask unanimous consent to speak for 12 to 15 minutes in morning business.

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

The Senator is recognized.

MISPLACED PRIORITIES

Mr. WHITEHOUSE. Madam President, as my colleagues know, earlier this week President Bush announced he will ask this Congress to provide an additional $46 billion for the war in Iraq next year. That is $46 billion more than the $150 billion he already told us he would ask for. Taken together, that is close to $200 billion more than the hundreds of billions of dollars the taxpayers of this country have already poured into the sands and marshes of Iraq—for a war this President has made clear he has no intention of ending.

The people of Rhode Island are tired of watching their sons and daughters, their neighbors and their friends, sent off to war by a President who won't trouble himself to make a plan to bring them home. They are tired of spending money our country has to borrow on a war with burdens our country should no longer have to bear. And they are sick and tired of hearing this President veto or threaten to veto legislation passed by this Congress that supports the real and urgent needs of Americans and their families—all because he says it costs too much.

Clearly, this President is an expert when it comes to irresponsible and excessive spending. Look at the war. Look at the private contractors. Look at the national debt he has run up. But how can he keep a straight face and tell the American people it is more important to borrow and spend $35 billion for 3½ more months of the Iraq war than it is to provide budgeted health insurance for 5 years to 10 million American children? What a sobering revelation of this administration's misplaced priorities.

No American should doubt for 1 minute what is going on here. Every time President Bush vetoes a bill to fund children's health care, every time he threatens to veto legislation that will send our Nation's children to college, keep families warm during the winter months, invest in job training and technical education programs, or offer the promise of medical cures through research at the National Institutes of Health, President Bush is making a choice. He is choosing prolonging a war in Iraq over battling cancer. He is choosing his no-plan war over helping families in poverty. It is a choice, and it is the wrong choice.

Last night, the Senate passed a bill to provide funding for the Departments of Labor, Health and Human Services, Education, and other agencies. On October 17, the administration expressed its opposition to this appropriations bill based on what it calls ''an irresponsible and excessive level of spending.'' As I said, this President is certainly expert at irresponsible and excessive levels of spending, but what does he mean? The President means that $10.8 billion spent to help millions of Americans lead healthier, more productive lives is irresponsible and excessive, but the nearly $200 billion additional he wants to borrow and spend on the war in Iraq is just fine.

Let's look at two areas in this bill where the funding levels we propose exceed those in the administration's budget to see just how irresponsible and excessive we are.

The first is at the National Heart, Lung, and Blood Institute at NIH. Our bill funds the institute at $67 million more than the President's request. I want to introduce my colleagues to one man who does not think this increase is irresponsible and excessive.

This is a picture of Richard Pezzillo on his last visit to Washington, DC. Rich is a bright, kind, thoughtful young man from North Providence, RI, who hopes one day to become a meteorologist. Rich also suffers from hemophilia and right now lies in a hospital bed in Rhode Island, too sick to attend his classes at Western Connecticut State University where he hopes to graduate this May. Sadly, Rich, now 24, has missed 2½ years of school due to his illness.

One of these absences was caused by an activity most of us would never even think about—something we do, in fact, to save lives—putting on a seatbelt. Three years ago, Rich unfastened his seatbelt from the airplane, collected his things, and walked off into the airport and suddenly started to feel tremendous pain. He started vomiting blood. Simply wearing his seatbelt had caused Rich to bleed internally, inside of his stomach, eventually requiring that his gall bladder be removed. Rich spent roughly 3 weeks in the hospital, accumulating bills totaling nearly $1.5 million. Luckily, Blue Cross-Blue Shield of Rhode Island, his family's insurer, covered most of these costs. But Rich is desperately afraid what will happen to him when he graduates from college and no longer qualifies under his parents' health care plan. Hemophilia is one of the most expensive conditions a person can have, one that few insurance companies will want to take on.

Richard Pezzillo is a fighter. He is an example for us all. But he will continue to face tremendous difficulties with his health throughout his life. Soon, thanks to research going on at the National Institutes of Health; specifically at the National Heart, Lung, and Blood Institute, hemophilia could be the first disease cured by gene therapy. The funding in this appropriations bill will go toward research which could save Richard's life and the lives of 18,000 people across this country who suffer from hemophilia. This spending is not irresponsible. This spending is not excessive. This spending is vital and it is working and it has the potential to save thousands of people like Rich Pezzillo.

A second place where this bill calls for spending above the President's budget—$128 million above his budget to be exact—is at the National Cancer Institute. Here I want to share the story of Benjamin Haight. I met Ben's parents this summer when they came down to my office from Warwick, RI, to share their little boy's story. Ben was diagnosed with neuroblastoma early in 1999 when he was just 4½ years old. At the time, Ben's dad was a senior chief in the Navy, serving aboard the USS Miami. He was airlifted off the submarine to join his son, as Ben underwent five rounds of chemo, surgery, radiation, and endured two stem cell transplants. These treatments left Ben with no high frequency hearing, requiring him to wear the two hearing aids, and they left him with a severely compromised immune system. But Ben refused to let any of this keep him from being a kid. He told his doctors there would be no treatments during science class, and that they would have to be out by 3 to go to Cub Scouts or baseball or soccer or other activities. He often left his chemotherapy sessions dressed in his Little League uniform. Ben was a snorkler, a sailor, a swimmer, a fisherman, a climber, an artist, and an animal lover. He was, as his parents say, a child first and a child with cancer second.

Though Ben and his family enjoyed 2 years of remission, he relapsed again in October 2001 at the start of second grade. This new round of treatment consisted of more chemo and over 200 blood and platelet transfusions. Ben lost his battle with neuroblastoma on August 8, 2003, at the age of 9. The night before he died, Ben turned to his mom and asked: ''Can't we try a stronger medicine?''

Well, Ben, at the pediatric oncology branch of the National Cancer Institute, they are trying to create that stronger medicine. Ten phase I and four phase II clinical trials are currently being conducted on neuroblastoma, and scientists are closer and closer every day to the stronger medicine you asked for.

Is it really so irresponsible and excessive to provide the funding for these studies, to find the treatments that could have saved Ben Haight and could save so many more children like him?

To me, irresponsible and excessive is borrowing and spending $450 billion for an endless war that undermines our national security and then asking the Congress for another $196.4 billion without a plan to bring our troops home, all while nearly 50 million Americans go without health insurance and millions of families hover at the door of poverty.

We should be clear that the nearly $200 billion this President has requested for the war in Iraq, on top of the hundreds of billions he has already spent, is not even the whole story. When this administration tells us about the financial costs of this disastrous war, they don't tell us about the interest payments we will have to pay. The Congressional Budget Office tells us that interest on the war will total $415 billion by 2017, and then there will be more interest on the additional $200 billion the President wants us to borrow and spend. The final interest costs of this war could approach $1 trillion, passed on to our children and grandchildren.

President Bush, I think most Americans would argue with you. I think most Americans would argue that $22 billion to keep our families healthy is a pretty sound investment in our country's future, and trillions of dollars in spending and hundreds of billions of dollars in interest for a war you won't take action to end, that is what is irresponsible and excessive.

The President's threatened veto of this appropriations bill is just another illustration of his extraordinarily misplaced priorities. The $67 million increase this bill calls for to fund the National Heart, Lung, and Blood Institute is a few hours of the cost of the war in Iraq—not even a full day, not even half a day, a few hours. In fact, the entire NIH budget in this bill is only $1 billion above the President's request. One billion dollars sounds like a lot of money, of course, but it is, in fact, only a few days of the war in Iraq—not a month, not a week, only a few days.

President Bush would rather prolong the war in Iraq than fund additional research at the National Institutes of Health into pediatric cancer, into hemophilia, and into other diseases such as diabetes, heart disease, arthritis, multiple sclerosis, autism, Parkinson's, and Alzheimer's. He would rather fund a continuous war than provide hope for millions of families around this country.

Well, I hope President Bush will listen to Rich Pezzillo's story. I hope he will listen to Ben Haight's parents. I hope he will listen to the thousands of Rhode Islanders who have reached out to me to demand a new direction, not only in Iraq but here at home in America. I hope he will listen to Americans across this country who think that people such as Rich and Ben should be our first priorities.

I am proud this bill puts people such as Rich and Ben ahead of the extreme rightwing ideologies and reckless wars this President pursues, and I hope we in Congress will stand our ground when, of all people, this President charges that putting Rich and Ben first is irresponsible and excessive.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2007

Mr. REID. Mr. President, we are going to move to the Amtrak bill. There is an understanding that I have with Senator LOTT that a number of Members on the Republican side want to be able to have a little extra time to do some amendments dealing with this bill. There are no games being played with this legislation. This is something which is long overdue, and we want to complete this.

I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 158, S. 294, the Amtrak authorization measure.

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

Mr. REID. Mr. President, let me say this. We have a lot to do here. For people who are concerned with why we haven't been doing things this afternoon, it takes time getting things done, and I appreciate that. This is a bipartisan effort to move forward on this legislation. It is something I think we can do. There is no effort to do anything other than get a bill passed.

I have had a conversation with Senator LOTT and with two other Republican Senators, and we have agreements with what we have talked about with them. It is a gentleman's agreement, but we will live up to it on our side.

Mr. President, there will be no more votes today. We hope there will be a good debate on this important issue today and hope there will be some amendments offered tomorrow and Friday.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 294) to reauthorize Amtrak, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 294

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 ''Passenger Rail Investment and Improvement Act of 2007''.

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Amendment of title 49, United States Code.
Sec. 3. Table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorization for Amtrak capital and operating expenses and State capital grants.
Sec. 102. Authorization for the Federal Railroad Administration.
Sec. 103. Repayment of long-term debt and capital leases.
Sec. 104. Excess railroad retirement.
Sec. 105. Other authorizations.

TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

Sec. 201. National railroad passenger transportation system defined.
Sec. 202. Amtrak Board of Directors.
Sec. 203. Establishment of improved financial accounting system.
Sec. 204. Development of 5-year financial plan.
Sec. 205. Establishment of grant process.
Sec. 206. State-supported routes.
Sec. 207. Independent auditor to establish methodologies for Amtrak route and service planning decisions.
Sec. 208. Metrics and standards.
Sec. 209. Passenger train performance.
Sec. 210. Long distance routes.
Sec. 211. Alternate passenger rail service program.
Sec. 212. Employee transition assistance.
Sec. 213. Northeast Corridor state-of-good-repair plan.
Sec. 214. Northeast Corridor infrastructure and operations improvements.
Sec. 215. Restructuring long-term debt and capital leases.
Sec. 216. Study of compliance requirements at existing intercity rail stations.
Sec. 217. Incentive pay.
Sec. 218. Access to Amtrak equipment and services.
Sec. 219. General Amtrak provisions.
Sec. 220. Private sector funding of passenger trains.
Sec. 221. On-board service improvements.
Sec. 222. Management accountability.
Sec. 223. Locomotive biodiesel fuel use study.

TITLE III—INTERCITY PASSENGER RAIL POLICY

Sec. 301. Capital assistance for intercity passenger rail service.
Sec. 302. State rail plans.
Sec. 303. Next generation corridor train equipment pool.
Sec. 304. Federal rail policy.
Sec. 305. Rail cooperative research program.

[TITLE IV—PASSENGER RAIL SECURITY AND SAFETY

Sec. 400. Short title.
Sec. 401. Rail transportation security risk assessment.
Sec. 402. Systemwide Amtrak security upgrades.
Sec. 403. Fire and life-safety improvements.
Sec. 404. Freight and passenger rail security upgrades.
Sec. 405. Rail security research and development.
Sec. 406. Oversight and grant procedures.
Sec. 407. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 408. Northern border rail passenger report.

Sec. 409. Rail worker security training program.
Sec. 410. Whistleblower protection program.
Sec. 411. High hazard material security threat mitigation plans.
Sec. 412. Memorandum of agreement.
Sec. 413. Rail security enhancements.
Sec. 414. Public awareness.
Sec. 415. Railroad high hazard material tracking.
Sec. 416. Authorization of appropriations.]

TITLE IV—IMPROVED RAIL SECURITY

Sec. 401. Definitions.
Sec. 402. Rail transportation security risk assessment.
Sec. 403. Systemwide Amtrak security upgrades.
Sec. 404. Fire and life-safety improvements.
Sec. 405. Freight and passenger rail security upgrades.
Sec. 406. Rail security research and development.
Sec. 407. Oversight and grant procedures.
Sec. 408. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 409. Northern border rail passenger report.
Sec. 410. Rail worker security training program.
Sec. 411. Whistleblower protection program.
Sec. 412. High hazard material security risk mitigation plans.
Sec. 413. Enforcement authority.
Sec. 414. Rail security enhancements.
Sec. 415. Public awareness.
Sec. 416. Railroad high hazard material tracking.
Sec. 417. Certain reports submitted to Senate Committee on Homeland Security and Governmental Affairs.
Sec. 418. Authorization of appropriations.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION FOR AMTRAK CAPITAL AND OPERATING EXPENSES AND STATE CAPITAL GRANTS.

(a) OPERATING GRANTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for operating costs the following amounts:

(1) For fiscal year 2007, $580,000,000.
(2) For fiscal year 2008, $590,000,000.
(3) For fiscal year 2009, $600,000,000.
(4) For fiscal year 2010, $575,000,000.
(5) For fiscal year 2011, $535,000,000.
(6) For fiscal year 2012, $455,000,000.

(b) CAPITAL GRANTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for capital projects (as defined in subparagraphs (A) and (B) of section 24401(2) of title 49, United States Code) to bring the Northeast Corridor (as defined in section 24102(a)) to a state-of-good-repair, for capital expenses of the national railroad passenger transportation system, and for purposes of making capital grants under section 24402 of that title to States, the following amounts:

(1) For fiscal year 2007, $813,000,000.
(2) For fiscal year 2008, $910,000,000.
(3) For fiscal year 2009, $1,071,000,000.
(4) For fiscal year 2010, $1,096,000,000.
(5) For fiscal year 2011, $1,191,000,000.
(6) For fiscal year 2012, $1,231,000,000.

(c) AMOUNTS FOR STATE GRANTS.—Out of the amounts authorized under subsection (b), the following percentage shall be available each fiscal year for capital grants to States under section 24402 of title 49, United States Code, to be administered by the Secretary of Transportation:

(1) 3 percent for fiscal year 2007.
(2) 11 percent for fiscal year 2008.
(3) 23 percent for fiscal year 2009.
(4) 25 percent for fiscal year 2010.
(5) 31 percent for fiscal year 2011.
(6) 33 percent for fiscal year 2012.

(d) PROJECT MANAGEMENT OVERSIGHT.—The Secretary may withhold up to ½ of 1 percent of amounts appropriated pursuant to subsection (b) for the costs of project management oversight of capital projects carried out by Amtrak.

SEC. 102. AUTHORIZATION FOR THE FEDERAL RAILROAD ADMINISTRATION.

There are authorized to be appropriated to the Secretary of Transportation for the use of the Federal Railroad Administration such sums as necessary to implement the provisions required under this Act for fiscal years 2007 through 2012.

SEC. 103. REPAYMENT OF LONG-TERM DEBT AND CAPITAL LEASES.

(a) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases, not more than the following amounts:

(A) For fiscal year 2007, $153,900,000.
(B) For fiscal year 2008, $153,400,000.
(C) For fiscal year 2009, $180,600,000.
(D) For fiscal year 2010, $182,800,000.
(E) For fiscal year 2011, $189,400,000.
(F) For fiscal year 2012, $202,600,000.

(2) INTEREST ON DEBT.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases, the following amounts:

(A) For fiscal year 2007, $139,600,000.
(B) For fiscal year 2008, $131,300,000.
(C) For fiscal year 2009, $121,700,000.
(D) For fiscal year 2010, $111,900,000.
(E) For fiscal year 2011, $101,900,000.
(F) For fiscal year 2012, $90,200,000.

(3) EARLY BUYOUT OPTION.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for the use of Amtrak for the payment of costs associated with early buyout options if the exercise of those options is determined to be advantageous to Amtrak.

(4) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest on secured debt, with the proceeds of grants authorized by this section shall not—

(A) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(B) change the private nature of Amtrak's or its successors' liabilities; or

(C) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

SEC. 104. EXCESS RAILROAD RETIREMENT.

There are authorized to be appropriated to the Secretary of Transportation, beginning with fiscal year 2007, such sums as may be necessary to pay to the Railroad Retirement Account an amount equal to the amount Amtrak must pay under section 3221 of the Internal Revenue Code of 1986 in such fiscal years that is more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries. For each fiscal year in which the Secretary makes such a payment, the amounts authorized by section 101(a) shall be reduced by an amount equal to such payment.

SEC. 105. OTHER AUTHORIZATIONS.

There are authorized to be appropriated to the Secretary of Transportation—

(1) $5,000,000 for each of fiscal years 2007 through 2012 to carry out the rail cooperative research program under section 24910 of title 49, United States Code;

(2) $5,000,000 for fiscal year 2008, to remain available until expended, for grants to Amtrak and States participating in the Next Generation Corridor Train Equipment Pool Committee established under section 303 of this Act for the purpose of designing, developing specifications for, and initiating the procurement of an initial order of 1 or more types of standardized next-generation corridor train equipment and establishing a jointly-owned corporation to manage that equipment; and

(3) $2,000,000 for fiscal year 2008, for the use of Amtrak in conducting the evaluation required by section 216 of this Act.

TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

SEC. 201. NATIONAL RAILROAD PASSENGER TRANSPORTATION SYSTEM DEFINED.

(a) IN GENERAL.—Section 24102 is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after paragraph (4) as so redesignated the following:

''(5) 'national rail passenger transportation system' means—

''(A) the segment of the Northeast Corridor between Boston, Massachusetts and Washington, DC;

''(B) rail corridors that have been designated by the Secretary of Transportation as high-speed corridors (other than corridors described in subparagraph (A)), but only after they have been improved to permit operation of high-speed service;

''(C) long distance routes of more than 750 miles between endpoints operated by Amtrak as of the date of enactment of the Passenger Rail Investment and Improvement Act of 2007; and

''(D) short-distance corridors, or routes of not more than 750 miles between endpoints, operated by—

''(i) Amtrak; or

''(ii) another rail carrier that receives funds under chapter 244.''.

(b) AMTRAK ROUTES WITH STATE FUNDING.—

(1) IN GENERAL.—Chapter 247 is amended by inserting after section 24701 the following:

''§ 24702. Transportation requested by States, authorities, and other persons

''(a) CONTRACTS FOR TRANSPORTATION.—Amtrak may enter into a contract with a State, a regional or local authority, or another person for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system upon such terms as the parties thereto may agree.

''(b) DISCONTINUANCE.—Upon termination of a contract entered into under this section, or the cessation of financial support under such a contract by either party, Amtrak may discontinue such service or route, notwithstanding any other provision of law.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24701 the following:

''24702. Transportation requested by States, authorities, and other persons.''.

(c) AMTRAK TO CONTINUE TO PROVIDE NON-HIGH-SPEED SERVICES.—Nothing in this Act is intended to preclude Amtrak from restoring, improving, or developing non-high-speed intercity passenger rail service.

(d) APPLICABILITY OF SECTION 24706.—Section 24706 is amended by adding at the end the following:

''(c) APPLICABILITY.—This section applies to all service over routes provided by Amtrak, notwithstanding any provision of section 24701 of this title or any other provision of this title except section 24702(b).''.

SEC. 202. AMTRAK BOARD OF DIRECTORS.

(a) IN GENERAL.—Section 24302 is amended to read as follows:

"§ 24302. Board of directors

''(a) COMPOSITION AND TERMS.—

''(1) The Board of Directors of Amtrak is composed of the following 10 directors, each of whom must be a citizen of the United States:

''(A) The Secretary of Transportation.

''(B) The President of Amtrak, who shall serve ex officio, as a non-voting member.

''(C) 8 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with general business and financial experience, experience or qualifications in transportation, freight and passenger rail transportation, travel, hospitality, cruise line, and passenger air transportation businesses, or representatives of employees or users of passenger rail transportation or a State government.

''(2) In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate and try to provide adequate and balanced representation of the major geographic regions of the United States served by Amtrak.

''(3) An individual appointed under paragraph (1)(C) of this subsection serves for 5 years or until the individual's successor is appointed and qualified. Not more than 5 individuals appointed under paragraph (1)(C) may be members of the same political party.

''(4) The Board shall elect a chairman and a vice chairman from among its membership. The vice chairman shall serve as chairman in the absence of the chairman.

''(5) The Secretary may be represented at board meetings by the Secretary's designee.

''(6) The voting privileges of the President can be changed by a unanimous decision of the Board.

''(b) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing Board duties. Each Director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending Board meetings.

''(c) VACANCIES.—A vacancy on the Board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

''(d) QUORUM.—A majority of the members serving shall constitute a quorum for doing business.

''(e) BYLAWS.—The Board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.''.

(b) EFFECTIVE DATE FOR DIRECTORS' PROVISION.—The amendment made by subsection (a) shall take effect on October 1, 2007. The members of the Amtrak Board serving on the date of enactment of this Act may continue to serve for the remainder of the term to which they were appointed.

SEC. 203. ESTABLISHMENT OF IMPROVED FINANCIAL ACCOUNTING SYSTEM.

(a) IN GENERAL.—The Amtrak Board of Directors—

(1) may employ an independent financial consultant with experience in railroad accounting to assist Amtrak in improving Amtrak's financial accounting and reporting system and practices; and

(2) shall implement a modern financial accounting and reporting system that will produce accurate and timely financial information in sufficient detail—

(A) to enable Amtrak to assign revenues and expenses appropriately to each of its lines of business and to each major activity within each line of business activity, including train operations, equipment maintenance, ticketing, and reservations;

(B) to aggregate expenses and revenues related to infrastructure and distinguish them from expenses and revenues related to rail operations;

(C) to allow the analysis of ticketing and reservation information on a real-time basis;

(D) to provide Amtrak cost accounting data; and

(E) to allow financial analysis by route and service.

(b) VERIFICATION OF SYSTEM; REPORT.—The Inspector General of the Department of Transportation shall review the accounting system designed and implemented under subsection (a) to ensure that it accomplishes the purposes for which it is intended. The Inspector General shall report his findings and conclusions, together with any recommendations, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 204. DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.

(a) DEVELOPMENT OF 5-YEAR FINANCIAL PLAN.—The Amtrak Board of Directors shall submit an annual budget and business plan for Amtrak, and a 5-year financial plan for the fiscal year to which that budget and business plan relate and the subsequent 4 years, prepared in accordance with this section, to the Secretary of Transportation and the Inspector General of the Department of Transportation no later than—

(1) the first day of each fiscal year beginning after the date of enactment of this Act; or

(2) the date that is 60 days after the date of enactment of an appropriation Act for the fiscal year, if later.

(b) CONTENTS OF 5-YEAR FINANCIAL PLAN.—The 5-year financial plan for Amtrak shall include, at a minimum—

(1) all projected revenues and expenditures for Amtrak, including governmental funding sources;

(2) projected ridership levels for all Amtrak passenger operations;

(3) revenue and expenditure forecasts for non-passenger operations;

(4) capital funding requirements and expenditures necessary to maintain passenger service which will accommodate predicted ridership levels and predicted sources of capital funding;

(5) operational funding needs, if any, to maintain current and projected levels of passenger service, including state-supported routes and predicted funding sources;

(6) projected capital and operating requirements, ridership, and revenue for any new passenger service operations or service expansions;

(7) an assessment of the continuing financial stability of Amtrak, as indicated by factors such as the ability of the Federal government to fund capital and operating requirements adequately, Amtrak's ability to efficiently manage its workforce, and Amtrak's ability to effectively provide passenger train service;

(8) estimates of long-term and short-term debt and associated principal and interest payments (both current and anticipated);

(9) annual cash flow forecasts;

(10) a statement describing methods of estimation and significant assumptions;

(11) specific measures that demonstrate measurable improvement year over year in Amtrak's ability to operate with reduced Federal operating assistance; and

(12) capital and operating expenditures for anticipated security needs.

(c) STANDARDS TO PROMOTE FINANCIAL STABILITY.—In meeting the requirements of subsection (b), Amtrak shall—

(1) apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices;

(2) use the categories specified in the financial accounting and reporting system developed under section 203 when preparing its 5-year financial plan; and

(3) ensure that the plan is consistent with the authorizations of appropriations under title I of this Act.

(d) ASSESSMENT BY DOT INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall assess the 5-year financial plans prepared by Amtrak under this section to determine whether they meet the requirements of subsection (b), and may suggest revisions to any components thereof that do not meet those requirements.

(2) ASSESSMENT TO BE FURNISHED TO THE CONGRESS.—The Inspector General shall furnish to the House of Representatives Committee on Appropriations, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation—

(A) an assessment of the annual budget within 90 days after receiving it from Amtrak; and

(B) an assessment of the remaining 4 years of the 5-year financial plan within 180 days after receiving it from Amtrak.

SEC. 205. ESTABLISHMENT OF GRANT PROCESS.

(a) GRANT REQUESTS.—Amtrak shall submit grant requests (including a schedule for the disbursement of funds), consistent with the requirements of this Act, to the Secretary of Transportation for funds authorized to be appropriated to the Secretary for the use of Amtrak under sections 101(a) and (b), 103, and 105.

(b) PROCEDURES FOR GRANT REQUESTS.—The Secretary shall establish substantive and procedural requirements, including schedules, for grant requests under this section not later than 30 days after the date of enactment of this Act and shall transmit copies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. As part of those requirements, the Secretary shall require, at a minimum, that Amtrak deposit grant funds, consistent with the appropriated amounts for each area of expenditure in a given fiscal year, in the following 3 accounts:

(1) The Amtrak Operating account.

(2) The Amtrak General Capital account.

(3) The Northeast Corridor Improvement funds account.

Amtrak may not transfer such funds to another account or expend such funds for any purpose other than the purposes covered by the account in which the funds are deposited without approval by the Secretary.

(c) REVIEW AND APPROVAL.—

(1) 30-DAY APPROVAL PROCESS.—The Secretary shall complete the review of a complete grant request (including the disbursement schedule) and approve or disapprove the request within 30 days after the date on which Amtrak submits the grant request. If the Secretary disapproves the request or determines that the request is incomplete or

deficient, the Secretary shall include the reason for disapproval or the incomplete items or deficiencies in the notice to Amtrak.

(2) 15-DAY MODIFICATION PERIOD.—Within 15 days after receiving notification from the Secretary under the preceding sentence, Amtrak shall submit a modified request for the Secretary's review.

(3) REVISED REQUESTS.—Within 15 days after receiving a modified request from Amtrak, the Secretary shall either approve the modified request, or, if the Secretary finds that the request is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the remaining deficiencies and recommend a process for resolving the outstanding portions of the request.

SEC. 206. STATE-SUPPORTED ROUTES.

(a) IN GENERAL.—Within 2 years after the date of enactment of this Act, the Board of Directors of Amtrak, in consultation with the Secretary of Transportation and the governors of each State and the Mayor of the District of Columbia or groups representing those officials, shall develop and implement a standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak associated with trains operated on routes described in section 24102(5)(B) or (D) or section 24702 that—

(1) ensures, within 5 years after the date of enactment of this Act, equal treatment in the provision of like services of all States and groups of States (including the District of Columbia); and

(2) allocates to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route.

(b) REVIEW.—If Amtrak and the States (including the District of Columbia) in which Amtrak operates such routes do not voluntarily adopt and implement the methodology developed under subsection (a) in allocating costs and determining compensation for the provision of service in accordance with the date established therein, the Surface Transportation Board shall determine the appropriate methodology required under subsection (a) for such services in accordance with the procedures and procedural schedule applicable to a proceeding under section 24904(c) of title 49, United States Code, and require the full implementation of this methodology with regards to the provision of such service within 1 year after the Board's determination of the appropriate methodology.

(c) USE OF CHAPTER 244 FUNDS.—Funds provided to a State under chapter 244 of title 49, United States Code, may be used, as provided in that chapter, to pay capital costs determined in accordance with this section.

SEC. 207. INDEPENDENT AUDITOR TO ESTABLISH METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) METHODOLOGY DEVELOPMENT.—The Federal Railroad Administration shall obtain the services of an independent auditor or consultant to develop and recommend objective methodologies for determining intercity passenger routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes. In developing such methodologies, the auditor or consultant shall consider—

(1) the current or expected performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services;

(2) connectivity of a route with other routes;

(3) the transportation needs of communities and populations that are not well served by other forms of public transportation;

(4) Amtrak's and other major intercity passenger rail service providers in other countries' methodologies for determining intercity passenger rail routes and services; and

(5) the views of the States and other interested parties.

(b) SUBMITTAL TO CONGRESS.—The auditor or consultant shall submit recommendations developed under subsection (a) to Amtrak, the House of Representatives Committee on Transportation and Infrastructure, and the Senate Committee on Commerce, Science, and Transportation.

(c) CONSIDERATION OF RECOMMENDATIONS.—Within 90 days after receiving the recommendations developed under subsection (a) by the independent auditor or consultant, the Amtrak Board shall consider the adoption of those recommendations. The Board shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure explaining its action in adopting or failing to adopt any of the recommendations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be made available to the Secretary of Transportation, out of any amounts authorized by this Act to be appropriated for the benefit of Amtrak and not otherwise obligated or expended, such sums as may be necessary to carry out this section.

(e) PIONEER ROUTE.—Within 2 years after the date of enactment of this Act, Amtrak shall conduct a 1-time evaluation of the Pioneer Route formerly operated by Amtrak to determine, using methodologies adopted under subsection (c), whether a level of passenger demand exists that would warrant consideration of reinstating the entire Pioneer Route service or segments of that service.

SEC. 208. METRICS AND STANDARDS.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Administrator of the Federal Railroad Administration and Amtrak shall jointly, in consultation with the Surface Transportation Board, rail carriers over whose rail lines Amtrak trains operate, States, Amtrak employees, and groups representing Amtrak passengers, as appropriate, develop new or improve existing metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services. Such metrics, at a minimum, shall include the percentage of avoidable and fully allocated operating costs covered by passenger revenues on each route, ridership per train mile operated, measures of on-time performance and delays incurred by intercity passenger trains on the rail lines of each rail carrier and, for long distance routes, measures of connectivity with other routes in all regions currently receiving Amtrak service and the transportation needs of communities and populations that are not well-served by other forms of public transportation. Amtrak shall provide reasonable access to the Federal Railroad Administration in order to enable the Administration to carry out its duty under this section.

(b) QUARTERLY REPORTS.—The Administrator of the Federal Railroad Administration shall collect the necessary data and publish a quarterly report on the performance and service quality of intercity passenger train operations, including Amtrak's cost recovery, ridership, on-time performance and minutes of delay, causes of delay, on-board services, stations, facilities, equipment, and other services.

(c) CONTRACT WITH HOST RAIL CARRIERS.—To the extent practicable, Amtrak and its host rail carriers shall incorporate the metrics and standards developed under subsection (a) into their access and service agreements.

(d) ARBITRATION.—If the development of the metrics and standards is not completed within the 180-day period required by subsection (a), any party involved in the development of those standards may petition the Surface Transportation Board to appoint an arbitrator to assist the parties in resolving their disputes through binding arbitration.

SEC. 209. PASSENGER TRAIN PERFORMANCE.

(a) IN GENERAL.—Section 24308 is amended by adding at the end the following:

''(f) PASSENGER TRAIN PERFORMANCE AND OTHER STANDARDS.—

''(1) INVESTIGATION OF SUBSTANDARD PERFORMANCE.—If the on-time performance of any intercity passenger train averages less than 80 percent for any 2 consecutive calendar quarters, or the service quality of intercity passenger train operations for which minimum standards are established under section 208 of the Passenger Rail Investment and Improvement Act of 2007 fails to meet those standards for 2 consecutive calendar quarters, the Surface Transportation Board may initiate an investigation, or upon the filing of a complaint by Amtrak, an intercity passenger rail operator, *a host freight railroad over which Amtrak operates,* or an entity for which Amtrak operates intercity passenger rail service, the Board shall initiate an investigation to determine whether, and to what extent, delays or failure to achieve minimum standards are due to causes that could reasonably be addressed by a rail carrier over tracks of which the intercity passenger train operates or reasonably addressed by Amtrak or other intercity passenger rail operator. In making its determination or carrying out such an investigation, the Board shall obtain information from all parties involved and identify reasonable measures and make recommendations to improve the service, quality, and on-time performance of the train.

''(2) PROBLEMS CAUSED BY HOST RAIL CARRIER.—If the Board determines that delays or failures to achieve minimum standards investigated under paragraph (1) are attributable to a rail carrier's failure to provide preference to Amtrak over freight transportation as required under subsection (c), the Board may award damages against the host rail carrier, including prescribing such other relief to Amtrak as it determines to be reasonable and appropriate pursuant to paragraph (3) of this subsection.

''(3) DAMAGES AND RELIEF.—In awarding damages and prescribing other relief under this subsection the Board shall consider such factors as—

''(A) the extent to which Amtrak suffers financial loss as a result of host rail carrier delays or failure to achieve minimum standards; and

''(B) what reasonable measures would adequately deter future actions which may reasonably be expected to be likely to result in delays to Amtrak on the route involved.

''(4) USE OF DAMAGES.—The Board shall, as it deems appropriate, remit the damages awarded under this subsection to Amtrak or

to an entity for which Amtrak operates intercity passenger rail service. Such damages shall be used for capital or operating expenditures on the routes over which delays or failures to achieve minimum standards were the result of a rail carrier's failure to provide preference to Amtrak over freight transportation as determined in accordance with paragraph (2).''.

(b) CHANGE OF REFERENCE.—Section 24308 is amended—

(1) by striking ''Interstate Commerce Commission'' in subsection (a)(2)(A) and inserting ''Surface Transportation Board'';

(2) by striking ''Commission'' each place it appears and inserting ''Board'';

(3) by striking ''Secretary of Transportation'' in subsection (c) and inserting ''Board''; and

(4) by striking ''Secretary'' the last 3 places it appears in subsection (c) and each place it appears in subsections (d) and (e) and inserting ''Board''.

SEC. 210. LONG DISTANCE ROUTES.

(a) IN GENERAL.—Chapter 247 is amended by adding at the end thereof the following:

''§ 24710. Long distance routes

''(a) ANNUAL EVALUATION.—Using the financial and performance metrics developed under section 208 of the Passenger Rail Investment and Improvement Act of 2007, Amtrak shall—

''(1) evaluate annually the financial and operating performance of each long distance passenger rail route operated by Amtrak; and

''(2) rank the overall performance of such routes for 2006 and identify each long distance passenger rail route operated by Amtrak in 2006 according to its overall performance as belonging to the best performing third of such routes, the second best performing third of such routes, or the worst performing third of such routes.

''(b) PERFORMANCE IMPROVEMENT PLAN.—Amtrak shall develop and publish a performance improvement plan for its long distance passenger rail routes to achieve financial and operating improvements based on the data collected through the application of the financial and performance metrics developed under section 208 of that Act. The plan shall address—

''(1) on-time performance;

''(2) scheduling, frequency, routes, and stops;

''(3) the feasibility of restructuring service into connected corridor service;

''(4) performance-related equipment changes and capital improvements;

''(5) on-board amenities and service, including food, first class, and sleeping car service;

''(6) State or other non-Federal financial contributions;

''(7) improving financial performance; and

''(8) other aspects of Amtrak's long distance passenger rail routes that affect the financial, competitive, and functional performance of service on Amtrak's long distance passenger rail routes.

''(c) IMPLEMENTATION.—Amtrak shall implement the performance improvement plan developed under subsection (b)—

''(1) beginning in fiscal year 2008 for those routes identified as being in the worst performing third under subsection (a)(2);

''(2) beginning in fiscal year 2009 for those routes identified as being in the second best performing third under subsection (a)(2); and

''(3) beginning in fiscal year 2010 for those routes identified as being in the best performing third under subsection (a)(2).

''(d) ENFORCEMENT.—The Federal Railroad Administration shall monitor the development, implementation, and outcome of improvement plans under this section. If, for any year, it determines that Amtrak is not making reasonable progress in implementing its performance improvement plan or in achieving the expected outcome of the plan for any calendar year, the Federal Railroad Administration—

''(1) shall notify Amtrak, the Inspector General of the Department of Transportation, and appropriate Congressional committees of its determination under this subsection;

''(2) shall provide an opportunity for a hearing with respect to that determination; and

''(3) may withhold any appropriated funds otherwise available to Amtrak for the operation of a route or routes on which it is not making progress, other than funds made available for passenger safety or security measures.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 247 is amended by inserting after the item relating to section 24709 the following:

''24710. Long distance routes.''.

SEC. 211. ALTERNATE PASSENGER RAIL SERVICE PROGRAM.

(a) IN GENERAL.—Chapter 247, as amended by section 209, is amended by adding at the end thereof the following:

''§ 24711. Alternate passenger rail service program

''(a) IN GENERAL.—Within 1 year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2007, the Federal Railroad Administration shall initiate a rulemaking proceeding to develop a program under which—

''(1) a rail carrier or rail carriers that own infrastructure over which Amtrak operates a passenger rail service route described in subparagraph (B), (C), or (D) of section 24102(5) or in section 24702 of title 49, United States [Code] *Code, or any entity operating as a rail carrier that has negotiated a contingent agreement to lease necessary rights-of-way from a rail carrier or rail carriers that own the infrastructure on which Amtrak operates such routes,* may petition the Federal Railroad Administration to be considered as a passenger rail service provider over that route in lieu of Amtrak;

''(2) the Administration would notify Amtrak within 30 days after receiving a petition under paragraph (1) and establish a deadline by which both the petitioner and Amtrak would be required to submit a bid to provide passenger rail service over the route to which the petition relates;

''(3) each bid would describe how the bidder would operate the route, what Amtrak passenger equipment would be needed, if any, what sources of non-Federal funding the bidder would use, including any State subsidy, among other things;

''(4) the Administration would make a decision and execute a contract within a specified, limited time after that deadline awarding to the winning bidder—

''(A) the right and obligation to provide passenger rail service over that route subject to such performance standards as the Administration may require, consistent with the standards developed under section 208 of this Act; and

''(B) an operating subsidy—

''(i) for the first year at a level not in excess of the level in effect during the fiscal year preceding the fiscal year in which the petition was received, adjusted for inflation;

''(ii) for any subsequent years at such level, adjusted for inflation; and

''(5) each bid would contain a staffing plan describing the number of employees needed to operate the service, the job assignments and requirements, and the terms of work for prospective and current employees of the bidder for the service outlined in the bid, and such staffing plan would be made available by the winning bidder to the public after the bid award.

''(b) IMPLEMENTATION.—

''(1) INITIAL PETITIONS.—Pursuant to any rules or regulations promulgated under subsection (A), the Administration shall establish a deadline for the submission of a petition under subsection (a)—

''(A) during fiscal year 2008 for operations commencing in fiscal year 2009; and

''(B) during the immediately preceding fiscal year for operations commencing in subsequent fiscal years.

''(2) ROUTE LIMITATIONS.—The Administration may not make the program available with respect to more than 1 Amtrak passenger rail route for operations beginning in fiscal year 2009 nor to more than 2 such routes for operations beginning in fiscal year 2011 and subsequent fiscal years.

''(c) PERFORMANCE STANDARDS; ACCESS TO FACILITIES; EMPLOYEES.—If the Administration awards the right and obligation to provide passenger rail service over a route under the program to a rail carrier or rail carriers—

''(1) it shall execute a contract with the rail carrier or rail carriers for rail passenger operations on that route that conditions the operating and subsidy rights upon—

''(A) the service provider continuing to provide passenger rail service on the route that is no less frequent, nor over a shorter distance, than Amtrak provided on that route before the award; and

''(B) the service provider's compliance with the minimum standards established under section 208 of the Passenger Rail Investment and Improvement Act of 2007 and such additional performance standards as the Administration may establish;

''(2) it shall, if the award is made to a rail carrier other than Amtrak, require Amtrak to provide access to its reservation system, stations, and facilities to any rail carrier or rail carriers awarded a contract under this section, in accordance with section 218 of that Act, necessary to carry out the purposes of this section;

''(3) the employees of any person used by a rail carrier or rail carriers (as defined in section 10102(5) of this title) in the operation of a route under this section shall be considered an employee of that carrier or carriers and subject to the applicable Federal laws and regulations governing similar crafts or classes of employees of Amtrak, including provisions under section 121 of the Amtrak Reform and Accountability Act of 1997 relating to employees that provide food and beverage service; and

''(4) the winning bidder shall provide preference in hiring to qualified Amtrak employees displaced by the award of the bid, consistent with the staffing plan submitted by the bidder.

''(d) CESSATION OF SERVICE.—If a rail carrier or rail carriers awarded a route under this section cease to operate the service or fail to fulfill their obligations under the contract required under subsection (c), the Administrator, in collaboration with the Surface Transportation Board shall take any necessary action consistent with this title to enforce the contract and ensure the continued provision of service, including the installment of an interim service provider and re-bidding the contract to operate the service. The entity providing service shall either be Amtrak or a rail carrier defined in section 24711(a)(1).

''(e) ADEQUATE RESOURCES.—Before taking any action allowed under this section, the Secretary shall certify that the Administrator has sufficient resources that are adequate to undertake the program established under this section.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 247, as amended by section 209, is amended by inserting after the item relating to section 24710 the following:

''24711. Alternate passenger rail service program.''.

SEC. 212. EMPLOYEE TRANSITION ASSISTANCE.

(a) PROVISION OF FINANCIAL INCENTIVES.—For Amtrak employees who are adversely affected by the cessation of the operation of a long distance route or any other route under section 24711 of title 49, United States Code, previously operated by Amtrak, the Secretary shall develop a program under which the Secretary may, in the Secretary's discretion, provide grants for financial incentives to be provided to employees of the National Railroad Passenger Corporation who voluntarily terminate their employment with the Corporation and relinquish any legal rights to receive termination-related payments under any contractual agreement with the Corporation.

(b) CONDITIONS FOR FINANCIAL INCENTIVES.—As a condition for receiving financial assistance grants under this section, the Corporation must certify that—

(1) a reasonable attempt was made to reassign an employee adversely affected under section 24711 of title 49, United States Code, or by the elimination of any route, to other positions within the Corporation in accordance with any contractual agreements;

(2) the financial assistance results in a net reduction in the total number of employees equal to the number receiving financial incentives;

(3) the financial assistance results in a net reduction in total employment expense equivalent to the total employment expenses associated with the employees receiving financial incentives; and

(4) the total number of employees eligible for termination-related payments will not be increased without the express written consent of the Secretary.

(c) AMOUNT OF FINANCIAL INCENTIVES.—The financial incentives authorized under this section may be no greater than $50,000 per employee.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to make grants to the National Railroad Passenger Corporation to provide financial incentives under subsection (a).

(e) TERMINATION-RELATED PAYMENTS.—If Amtrak employees adversely affected by the cessation of Amtrak service resulting from the awarding of a grant to an operator other than Amtrak for the operation of a route under section 24711 of title 49, United States Code, or any other route, previously operated by Amtrak do not receive financial incentives under subsection (a), then the Secretary shall make grants to the National Railroad Passenger Corporation from funds authorized by section 102 of this Act for termination-related payments to employees under existing contractual agreements.

SEC. 213. NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR PLAN.

(a) IN GENERAL.—Within 6 months after the date of enactment of this Act, the National Railroad Passenger Corporation, in consultation with the Secretary and the States (including the District of Columbia) that make up the Northeast Corridor (as defined in section 24102 of title 49, United States Code), shall prepare a capital spending plan for capital projects required to return the *railroad right-of-way (including track, signals, and auxiliary structures), facilities, stations, and equipment, of the* Northeast Corridor to a state of good repair by the end of fiscal year 2012, consistent with the funding levels authorized in this Act and shall submit the plan to the Secretary.

(b) APPROVAL BY THE SECRETARY.—

(1) The Corporation shall submit the capital spending plan prepared under this section to the Secretary of Transportation for review and approval pursuant to the procedures developed under section 205 of this Act.

(2) The Secretary of Transportation shall require that the plan be updated at least annually and shall review and approve such updates. During review, the Secretary shall seek comments and review from the commission established under section 24905 of title 49, United States Code, and other Northeast Corridor users regarding the plan.

(3) The Secretary shall make grants to the Corporation with funds authorized by section 101(b) for Northeast Corridor capital investments contained within the capital spending plan prepared by the Corporation and approved by the Secretary.

(4) Using the funds authorized by section 101(d), the Secretary shall review Amtrak's capital expenditures funded by this section to ensure that such expenditures are consistent with the capital spending plan and that Amtrak is providing adequate project management oversight and fiscal controls.

(c) ELIGIBILITY OF EXPENDITURES.—The Federal share of expenditures for capital improvements under this section may not exceed 100 percent.

SEC. 214. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS IMPROVEMENTS.

(a) IN GENERAL.—Section 24905 is amended to read as follows:

''§ 24905. Northeast Corridor Infrastructure and Operations Advisory Commission; Safety and Security Committee

''(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.—

''(1) Within 180 days after the date of enactment of the Passenger Rail Investment and Improvement Act of 2007, the Secretary of Transportation shall establish a Northeast Corridor Infrastructure and Operations Advisory Commission (hereinafter referred to in this section as the 'Commission') to promote mutual cooperation and planning pertaining to the rail operations and related activities of the Northeast Corridor. The Commission shall be made up of—

''(A) members representing the National Railroad Passenger Corporation;

''(B) members representing the Secretary of Transportation and the Federal Railroad Administration;

''(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by, and serving at the pleasure of, the chief executive officer thereof; and

''(D) non-voting representatives of freight railroad carriers using the Northeast Corridor selected by the Secretary.

''(2) The Secretary shall ensure that the membership belonging to any of the groups enumerated under subparagraph (1) shall not constitute a majority of the commission's memberships.

''(3) The commission shall establish a schedule and location for convening meetings, but shall meet no less than four times per fiscal year, and the commission shall develop rules and procedures to govern the commission's proceedings.

''(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(5) Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

''(6) The Chairman of the Commission shall be elected by the members.

''(7) The Commission may appoint and fix the pay of such personnel as it considers appropriate.

''(8) Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

''(9) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

''(10) The commission shall consult with other entities as appropriate.

''(b) GENERAL RECOMMENDATIONS.—The Commission shall develop recommendations concerning Northeast Corridor rail infrastructure and operations including proposals addressing, as appropriate—

''(1) short-term and long term capital investment needs beyond the state-of-good-repair under section 213;

''(2) future funding requirements for capital improvements and maintenance;

''(3) operational improvements of intercity passenger rail, commuter rail, and freight rail services;

''(4) opportunities for additional non-rail uses of the Northeast Corridor;

''(5) scheduling and dispatching;

''(6) safety and security enhancements;

''(7) equipment design;

''(8) marketing of rail services; and

''(9) future capacity requirements.

''(c) ACCESS COSTS.—

''(1) DEVELOPMENT OF FORMULA.—Within 1 year after verification of Amtrak's new financial accounting system pursuant to section 203(b) of the Passenger Rail Investment and Improvement Act of 2007, the Commission shall—

''(A) develop a standardized formula for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation, as defined in section 24102 of this title, that use National Railroad Passenger Corporation facilities or services or that provide such facilities or services to the National Railroad Passenger Corporation that ensure that—

''(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation; and

''(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service;

''(B) develop a proposed timetable for implementing the formula before the end of the 6th year following the date of enactment of that Act;

''(C) transmit the proposed timetable to the Surface Transportation Board; and

''(D) at the request of a Commission member, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-binding mediation to reach an agreement under this section.

''(2) IMPLEMENTATION.—The National Railroad Passenger Corporation and the commuter authorities providing commuter rail passenger transportation on the Northeast Corridor shall implement new agreements for usage of facilities or services based on the formula proposed in paragraph (1) in accordance with the timetable established therein. If the entities fail to implement such new agreements in accordance with the timetable, the Commission shall petition the Surface Transportation Board to determine the appropriate compensation amounts for

such services in accordance with section 24904(c) of this title. The Surface Transportation Board shall enforce its determination on the party or parties involved.

''(d) TRANSMISSION OF RECOMMENDATIONS.—The commission shall annually transmit the recommendations developed under subsection (b) and the formula and timetable developed under subsection (c)(1) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

''(e) NORTHEAST CORRIDOR SAFETY AND SECURITY COMMITTEE.—

''(1) IN GENERAL.—The Secretary shall establish a Northeast Corridor Safety and Security Committee composed of members appointed by the Secretary. The members shall be representatives of—

''(A) the Secretary;

''(B) Amtrak;

''(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

''(D) commuter agencies;

''(E) rail passengers;

''(F) rail labor;

''(G) the Transportation Security Administration; and

''(H) other individuals and organizations the Secretary decides have a significant interest in rail safety or security.

''(2) FUNCTION; MEETINGS.—The Secretary shall consult with the Committee about safety and security improvements on the Northeast Corridor main line. The Committee shall meet at least once every 2 years to consider safety matters on the main line.

''(3) REPORT.—At the beginning of the first session of each Congress, the Secretary shall submit a report to the Commission and to Congress on the status of efforts to improve safety and security on the Northeast Corridor main line. The report shall include the safety recommendations of the Committee and the comments of the Secretary on those recommendations.''.

(b) CONFORMING AMENDMENTS.—Section 24904(c)(2) is amended by—

(1) inserting ''commuter rail passenger and'' after ''between''; and

(2) striking ''freight'' in the second sentence.

(c) RIDOT ACCESS AGREEMENT.—

(1) IN GENERAL.—Not later than December 15, 2007, Amtrak and the Rhode Island Department of Transportation shall enter into an agreement governing access fees and other costs or charges related to the operation of the South County commuter rail service on the Northeast Corridor between Providence and Wickford Junction, Rhode Island.

(2) FAILURE TO REACH AGREEMENT.—If Amtrak and the Rhode Island Department of Transportation fail to reach the agreement specified under paragraph (1), the Administrator of the Federal Railroad Administration shall, after consultation with both parties, resolve any outstanding disagreements between the parties, including setting access fees and other costs or charges related to the operation of the South County commuter rail service that do not allow for the cross-subsidization of intercity rail passenger and commuter rail passenger service, not later than [January 30, 2008.] *October 31, 2007.*

(3) INTERIM AGREEMENT.—Any agreement between Amtrak and the Rhode Island Department of Transportation relating to access costs made under this subsection shall be superseded by any access cost formula developed by the Northeast Corridor Infrastructure and Operations Advisory Commission under section 24905(c)(1) of title 49, United States Code, as amended by section 214(a) of this Act.

SEC. 215. RESTRUCTURING LONG-TERM DEBT AND CAPITAL LEASES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, may make agreements to restructure Amtrak's indebtedness as of the date of enactment of this Act. This authorization expires on October 1, 2008.

(b) DEBT RESTRUCTURING.—The Secretary of Treasury, in consultation with the Secretary of the Transportation and Amtrak, shall enter into negotiations with the holders of Amtrak debt, including leases, outstanding on the date of enactment of this Act for the purpose of restructuring (including repayment) and repaying that debt. The Secretary of the Treasury may secure agreements for restructuring or repayment on such terms as the Secretary of the Treasury deems favorable to the interests of the Government.

(c) CRITERIA.—In restructuring Amtrak's indebtedness, the Secretary and Amtrak—

(1) shall take into consideration repayment costs, the term of any loan or loans, and market conditions; and

(2) shall ensure that the restructuring results in significant savings to Amtrak and the United States Government.

(d) PAYMENT OF RENEGOTIATED DEBT.—If the criteria under subsection (c) are met, the Secretary of Treasury may assume or repay the restructured debt, as appropriate.

(e) AMTRAK PRINCIPAL AND INTEREST PAYMENTS.—

(1) PRINCIPAL ON DEBT SERVICE.—Unless the Secretary of Treasury makes sufficient payments to creditors under subsection (d) so that Amtrak is required to make no payments to creditors in a fiscal year, the Secretary of Transportation shall use funds authorized by section 103(a)(1) for the use of Amtrak for retirement of principal on loans for capital equipment, or capital leases.

(2) INTEREST ON DEBT.—Unless the Secretary of Treasury makes sufficient payments to creditors under subsection (d) so that Amtrak is required to make no payments to creditors in a fiscal year, the Secretary of Transportation shall use funds authorized by section 103(a)(2) for the use of Amtrak for the payment of interest on loans for capital equipment, or capital leases.

(3) REDUCTIONS IN AUTHORIZATION LEVELS.—Whenever action taken by the Secretary of the Treasury under subsection (a) results in reductions in amounts of principal or interest that Amtrak must service on existing debt, the corresponding amounts authorized by section 103(a)(1) or (2) shall be reduced accordingly.

(f) LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.—The payment of principal and interest on secured debt, other than debt assumed under subsection (d), with the proceeds of grants under subsection (e) shall not—

(1) modify the extent or nature of any indebtedness of the National Railroad Passenger Corporation to the United States in existence of the date of enactment of this Act;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

(g) SECRETARY APPROVAL.—Amtrak may not incur more debt after the date of enactment of this Act without the express advance approval of the Secretary of Transportation.

(h) REPORT.—The Secretary of the Treasury shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Appropriations, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Appropriations by November 1, 2008—

(1) describing in detail any agreements to restructure the Amtrak debt; and

(2) providing an estimate of the savings to Amtrak and the United States Government.

SEC. 216. STUDY OF COMPLIANCE REQUIREMENTS AT EXISTING INTERCITY RAIL STATIONS.

Amtrak, in consultation with station owners, shall evaluate the improvements necessary to make all existing stations it serves readily accessible to and usable by individuals with disabilities, as required by section 242(e)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12162(e)(2)). The evaluation shall include the estimated cost of the improvements necessary, the identification of the responsible person (as defined in section 241(5) of that Act (42 U.S.C. 12161(5))), and the earliest practicable date when such improvements can be made. Amtrak shall submit the evaluation to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the National Council on Disability by September 30, 2008, along with recommendations for funding the necessary improvements.

SEC. 217. INCENTIVE PAY.

The Amtrak Board of Directors is encouraged to develop an incentive pay program for Amtrak management employees.

SEC. 218. ACCESS TO AMTRAK EQUIPMENT AND SERVICES.

If a State desires to select or selects an entity other than Amtrak to provide services required for the operation of an intercity passenger train route described in section 24102(5)(D) or 24702 of title 49, United States Code, the State may make an agreement with Amtrak to use facilities and equipment of, or have services provided by, Amtrak under terms agreed to by the State and Amtrak to enable the State to utilize an entity other than Amtrak to provide services required for operation of the route. If the parties cannot agree upon terms, and the Surface Transportation Board finds that access to Amtrak's facilities or equipment, or the provision of services by Amtrak, is necessary to carry out this provision and that the operation of Amtrak's other services will not be impaired thereby, the Surface Transportation Board shall, within 120 days after submission of the dispute, issue an order that the facilities and equipment be made available, and that services be provided, by Amtrak, and shall determine reasonable compensation, liability and other terms for use of the facilities and equipment and provision of the services. Compensation shall be determined in accord with the methodology established pursuant to section 206 of this Act.

SEC. 219. GENERAL AMTRAK PROVISIONS.

(a) REPEAL OF SELF-SUFFICIENCY REQUIREMENTS.

(1) TITLE 49 AMENDMENTS.—Chapter 241 is amended—

(A) by striking the last sentence of section 24101(d); and

(B) by striking the last sentence of section 24104(a).

(2) AMTRAK REFORM AND ACCOUNTABILITY ACT AMENDMENTS.—Title II of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt) is amended by striking sections 204 and 205.

(b) LEASE ARRANGEMENTS.—Amtrak may obtain services from the Administrator of General Services, and the Administrator may provide services to Amtrak, under section 201(b) and 211(b) of the Federal Property and Administrative Service Act of 1949 (40

U.S.C. 481(b) and 491(b)) for each of fiscal years 2007 through 2012.

(c) APPLICABILITY OF DISTRICT OF COLUMBIA LAW TO CERTAIN AMTRAK CONTRACTS.—Section 24301 is amended by adding at the end the following:

''(o) APPLICABILITY OF DISTRICT OF COLUMBIA LAW.—Any lease or contract entered into between the National Railroad Passenger Corporation and the State of Maryland, or any department or agency of the State of Maryland, after the date of the enactment of this subsection shall be governed by the laws of the District of Columbia.''.

(d) TRAVEL FACILITATION.—Using existing authority or agreements, or upon reaching additional agreements with Canada, the Secretary of Transportation and other Federal agencies, as appropriate, are authorized to establish facilities and procedures to conduct preclearance of passengers traveling on Amtrak trains from Canada to the United States. The Secretary shall seek to establish such facilities and procedures—

(1) in Vancouver, Canada, no later than June 1, 2008; and

(2) in other areas as determined appropriate by the Secretary.

SEC. 220. PRIVATE SECTOR FUNDING OF PASSENGER TRAINS.

Amtrak is encouraged to increase its operation of trains funded by the private sector in order to minimize its need for Federal subsidies. Amtrak shall utilize the provisions of section 24308 of title 49, United States Code, when necessary to obtain access to facilities, train and engine crews, or services of a rail carrier or regional transportation authority that are required to operate such trains.

SEC. 221. ON-BOARD SERVICE IMPROVEMENTS.

(a) IN GENERAL.—Within 1 year after metrics and standards are established under section 208 of this Act, Amtrak shall develop and implement a plan to improve on-board service pursuant to the metrics and standards for such service developed under that section.

(b) REPORT.—Amtrak shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the on-board service improvements proscribed in the plan and the timeline for implementing such improvements.

SEC. 222. AMTRAK MANAGEMENT ACCOUNTABILITY.

(a) IN GENERAL.—Chapter 243 is amended by inserting after section 24309 the following:

''§ 24310. Management accountability

''(a) IN GENERAL.—Three years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2007, and two years thereafter, the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by Amtrak management and the Department of Transportation in implementing the provisions of that Act.

''(b) ASSESSMENT.—The management assessment undertaken by the Inspector General may include a review of—

''(1) effectiveness improving annual financial planning;

''(2) effectiveness in implementing improved financial accounting;

''(3) efforts to implement minimum train performance standards;

''(4) progress maximizing revenues and minimizing Federal subsidies; and

''(5) any other aspect of Amtrak operations the Inspector General finds appropriate to review.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24309 the following:

''24310. Management accountability.''.

SEC. 223. LOCOMOTIVE BIODIESEL FUEL USE STUDY.

(a) IN GENERAL.—The Federal Railroad Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall conduct a study to determine the extent to which Amtrak could use biodiesel fuel blends to power its fleet of locomotives and any of its other motor vehicles that can operate on diesel fuel.

(b) FACTORS.—In conducting the study, the Federal Railroad Administration shall consider—

(1) environmental and energy security effects of biodiesel fuel use;

(2) the cost of purchasing biodiesel fuel blends for such purposes;

(3) whether sufficient biodiesel fuel is readily available; and

(4) the effect of biodiesel fuel use on relevant performance or warranty specifications.

(c) REPORT.—Not later than April 1, 2008, the Federal Railroad Administration shall report the results of its study to the Congress together with such findings, conclusions, and recommendations as it deems appropriate.

TITLE III—INTERCITY PASSENGER RAIL POLICY

SEC. 301. CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE; STATE RAIL PLANS.

(a) IN GENERAL.—Part C of subtitle V is amended by inserting the following after chapter 243:

''CHAPTER 244. INTERCITY PASSENGER RAIL SERVICE CORRIDOR CAPITAL ASSISTANCE

''Sec.
''24401. Definitions.
''24402. Capital investment grants to support intercity passenger rail service.
''24403. Project management oversight.
''24404. Use of capital grants to finance first-dollar liability of grant project.
''24405. Grant conditions.

''§ 24401. Definitions

''In this subchapter:

''(1) APPLICANT.—The term 'applicant' means a State (including the District of Columbia), a group of States, an Interstate Compact, or a public agency established by one or more States and having responsibility for providing intercity passenger rail service.

''(2) CAPITAL PROJECT.—The term 'capital project' means a project or program in a State rail plan developed under chapter 225 of this title for—

''(A) acquiring, constructing, improving, or inspecting equipment, track and track structures, or a facility for use in or for the primary benefit of intercity passenger rail service, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, highway-rail grade crossing improvements related to intercity passenger rail service, security, mitigating environmental impacts, communication and signalization improvements, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

''(B) rehabilitating, remanufacturing or overhauling rail rolling stock and facilities used primarily in intercity passenger rail service;

''(C) costs associated with developing State rail plans; and

''(D) the first-dollar liability costs for insurance related to the provision of intercity passenger rail service under section 24404.

''(3) INTERCITY PASSENGER RAIL SERVICE.—The term 'intercity passenger rail service' means transportation services with the primary purpose of passenger transportation between towns, cities and metropolitan areas by rail, including high-speed rail, as defined in section 24102 of title 49, United States Code.

''§ 24402. Capital investment grants to support intercity passenger rail service

''(a) GENERAL AUTHORITY.—

''(1) The Secretary of Transportation may make grants under this section to an applicant to assist in financing the capital costs of facilities and equipment necessary to provide or improve intercity passenger rail transportation.

''(2) The Secretary shall require that a grant under this section be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section and shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures and a record of decision on applicant eligibility. The Secretary shall issue a final rule establishing such procedures not later than 90 days after the date of enactment of the Passenger Rail Investment and Improvement Act of 2007.

''(b) PROJECT AS PART OF STATE RAIL PLAN.—

''(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of a State rail plan developed under chapter 225 of this title, or under the plan required by section 203 of the Passenger Rail Investment and Improvement Act of 2007, and that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

''(2) An applicant shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

''(3) If an applicant has not selected the proposed operator of its service competitively, the applicant shall provide written justification to the Secretary showing why the proposed operator is the best, taking into account price and other factors, and that use of the proposed operator will not unnecessarily increase the cost of the project.

''(c) PROJECT SELECTION CRITERIA.—The Secretary, in selecting the recipients of financial assistance to be provided under subsection (a), shall—

''(1) require that each proposed project meet all safety and security requirements that are applicable to the project under law;

''(2) give preference to projects with high levels of estimated ridership, increased on-time performance, reduced trip time, additional service frequency to meet anticipated or existing demand, or other significant service enhancements as measured against minimum standards developed under section 208 of the Passenger Rail Investment and Improvement Act of 2007;

''(3) encourage intermodal connectivity through projects that provide direct connections between train stations, airports, bus terminals, subway stations, ferry ports, and other modes of transportation;

''(4) ensure that each project is compatible with, and is operated in conformance with—

''(A) plans developed pursuant to the requirements of section 135 of title 23, United States Code; and

''(B) the national rail plan (if it is available); and

''(5) favor the following kinds of projects:

''(A) Projects that are expected to have a significant favorable impact on air or highway traffic congestion, capacity, or safety.

''(B) Projects that also improve freight or commuter rail operations.

''(C) Projects that have significant environmental benefits.

''(D) Projects that are—

''(i) at a stage of preparation that all pre-commencement compliance with environmental protection requirements has already been completed; and

''(ii) ready to be commenced.

''(E) Projects with positive economic and employment impacts.

''(F) Projects that encourage the use of positive train control technologies.

''(G) Projects that have commitments of funding from non-Federal Government sources in a total amount that exceeds the minimum amount of the non-Federal contribution required for the project.

''(H) Projects that involve donated property interests or services.

''(I) Projects that are identified by the Surface Transportation Board as necessary to improve the on time performance and reliability of intercity passenger rail under section 24308(f).

''(J) Projects described in section 5302(a)(1)(G) of this title that are designed to support intercity passenger rail service.

''(d) AMTRAK ELIGIBILITY.—To receive a grant under this section, the National Railroad Passenger Corporation may enter into a cooperative agreement with 1 or more States to carry out 1 or more projects on a State rail plan's ranked list of rail capital projects developed under section 22504(a)(5) of this title.

''(e) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

''(1)(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

''(B) At least 30 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the House and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

''(C) An obligation or administrative commitment may be made only when amounts are appropriated.

''(2)(A) The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

''(i) establish the terms of participation by the United States Government in a project under this section;

''(ii) establish the maximum amount of Government financial assistance for the project;

''(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

''(iv) make timely and efficient management of the project easier according to the law of the United States.

''(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government and is subject to the availability of appropriations made by Federal law and to Federal laws in force on or enacted after the date of the contingent commitment. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(3)(A) The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

''(i) a full funding grant agreement for the project will be made; and

''(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

''(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

''(4) The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements may be not more than the amount authorized under section 101(c) of Passenger Rail Investment and Improvement Act of 2007, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

''(f) FEDERAL SHARE OF NET PROJECT COST.—

''(1)(A) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost.

''(B) A grant for the project shall not exceed 80 percent of the project net capital cost.

''(C) The Secretary shall give priority in allocating future obligations and contingent commitments to incur obligations to grant requests seeking a lower Federal share of the project net capital cost.

''(2) Up to an additional 20 percent of the required non-Federal funds may be funded from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

''(3) 50 percent of the average amounts expended by a State or group of States (including the District of Columbia) for capital projects to benefit intercity passenger rail service *and operating costs of up to $5,000,000 per fiscal year of such service* in fiscal years 2004, 2005, and 2006 shall be credited towards the matching requirements for grants awarded *in fiscal years 2007, 2008, and 2009* under this section. The Secretary may require such information as necessary to verify such expenditures.

''(4) 50 percent of the average amounts expended by a State or group of States (including the District of Columbia) in a [fiscal year beginning in 2007] *fiscal year, beginning in fiscal year 2007,* for capital projects to benefit intercity passenger rail service or for the operating costs of such service above the average [of] *capital and operating* expenditures made for such service in fiscal years 2004, 2005, and 2006 shall be credited towards the matching requirements for grants awarded under this section. The Secretary may require such information as necessary to verify such expenditures.

''(g) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) The Secretary may pay the Federal share of the net capital project cost to an applicant that carries out any part of a project described in this section according to all applicable procedures and requirements if—

''(A) the applicant applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

''(2) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the applicant to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

''(3) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

''(h) 2-YEAR AVAILABILITY.—Funds appropriated under this section shall remain available until expended. If any amount provided as a grant under this section is not obligated or expended for the purposes described in subsection (a) within 2 years after the date on which the State received the grant, such sums shall be returned to the Secretary for other intercity passenger rail development projects under this section at the discretion of the Secretary.

''(i) PUBLIC-PRIVATE PARTNERSHIPS.—

''(1) IN GENERAL.—A metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project funded with a grant under this title.

''(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

''(A) ownership or operation of any land, facility, locomotive, rail car, vehicle, or other physical asset associated with the project;

''(B) cost-sharing of any project expense;

''(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

''(D) any other form of participation approved by the Secretary.

''(3) SUB-ALLOCATION.—A State may allocate funds under this section to any entity described in paragraph (1).

''(j) SPECIAL TRANSPORTATION CIRCUMSTANCES.—In carrying out this section, the Secretary shall allocate an appropriate portion of the amounts available under this section to provide grants to States—

''(1) in which there is no intercity passenger rail service for the purpose of funding freight rail capital projects that are on a State rail plan developed under chapter 225 of this title that provide public benefits (as defined in chapter 225) as determined by the Secretary; or

''(2) in which the rail transportation system is not physically connected to rail systems in the continental United States or may not otherwise qualify for a grant under this section due to the unique characteristics of the geography of that State or other relevant considerations, for the purpose of funding transportation-related capital projects.

''(k) SMALL CAPITAL PROJECTS.—The Secretary shall make available $10,000,000 annually from the amounts authorized under section 101(c) of the Passenger Rail Investment and Improvement Act of 2007 beginning in fiscal year 2008 for grants for capital projects eligible under this section not exceeding $2,000,000, including costs eligible under section 206(c) of that Act. The Secretary may wave requirements of this section, including state rail plan requirements, as appropriate.

''§ 24403. Project management oversight

''(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this subchapter, an applicant must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

''(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

''(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

''(3) a construction schedule for the project;

''(4) a document control procedure and recordkeeping system;

''(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

''(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

''(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

''(8) material testing policies and procedures;

''(9) internal plan implementation and reporting requirements;

''(10) criteria and procedures to be used for testing the operational system or its major components;

''(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

''(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

''(b) SECRETARIAL OVERSIGHT.—

''(1) The Secretary may use no more than 0.5 percent of amounts made available in a fiscal year for capital projects under this subchapter to enter into contracts to oversee the construction of such projects.

''(2) The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

''(3) The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

''(c) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this subchapter shall provide the Secretary and a contractor the Secretary chooses under subsection (c) of this section with access to the construction sites and records of the recipient when reasonably necessary.

''§ 24404. Use of capital grants to finance first-dollar liability of grant project

''Notwithstanding the requirements of section 24402 of this subchapter, the Secretary of Transportation may approve the use of capital assistance under this subchapter to fund self-insured retention of risk for the first tier of liability insurance coverage for rail passenger service associated with the capital assistance grant, but the coverage may not exceed $20,000,000 per occurrence or $20,000,000 in aggregate per year.

''§ 24405. Grant conditions

''(a) DOMESTIC BUYING PREFERENCE.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—In carrying out a project funded in whole or in part with a grant under this title, the grant recipient shall purchase only—

''(i) unmanufactured articles, material, and supplies mined or produced in the United States; or

''(ii) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

''(B) DE MINIMIS AMOUNT.—Subparagraph (1) applies only to a purchase in an total amount that is not less than $1,000,000.

''(2) EXEMPTIONS.—On application of a recipient, the Secretary may exempt a recipient from the requirements of this subsection if the Secretary decides that, for particular articles, material, or supplies—

''(A) such requirements are inconsistent with the public interest;

''(B) the cost of imposing the requirements is unreasonable; or

''(C) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality.

''(3) UNITED STATES DEFINED.—In this subsection, the term 'the United States' means the States, territories, and possessions of the United States and the District of Columbia.

''(b) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this title shall be considered a rail carrier as defined in section 10102(5) of this title for purposes of this title and any other statute that adopts the that definition or in which that definition applies, including—

''(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

''(2) the Railway Labor Act (43 U.S.C. 151 et seq.).

''(c) GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this title for a project that uses rights-of-way owned by a railroad that—

''(1) a written agreement exist between the applicant and the railroad regarding such use and ownership, including—

''(A) any compensation for such use;

''(B) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations;

''(C) an assurance by the railroad that collective bargaining agreements with the railroad's employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by the railroad on the railroad transportation corridor; and

''(D) an assurance that an applicant complies with liability requirements consistent with section 28103 of this title; and

''(2) the applicant agrees to comply with—

''(A) the standards of section 24312 of this title, as such section was in effect on September 1, 2003, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with those standards for construction work financed under an agreement made under section 24308(a) of this title; and

''(B) the protective arrangements established under section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) with respect to employees affected by actions taken in connection with the project to be financed in whole or in part by grants under this subchapter.

''(d) REPLACEMENT OF EXISTING INTERCITY PASSENGER RAIL SERVICE.—

''(1) COLLECTIVE BARGAINING AGREEMENT FOR INTERCITY PASSENGER RAIL PROJECTS.—Any entity providing intercity passenger railroad transportation that begins operations after the date of enactment of this Act on a project funded in whole or in part by grants made under this title and replaces intercity rail passenger service that was provided by Amtrak, unless such service was provided solely by Amtrak to another entity, as of such date shall enter into an agreement with the authorized bargaining agent or agents for adversely affected employees of the predecessor provider that—

''(A) gives each such qualified employee of the predecessor provider priority in hiring according to the employee's seniority on the predecessor provider for each position with the replacing entity that is in the employee's craft or class and is available within 3 years after the termination of the service being replaced;

''(B) establishes a procedure for notifying such an employee of such positions;

''(C) establishes a procedure for such an employee to apply for such positions; and

''(D) establishes rates of pay, rules, and working conditions.

''(2) IMMEDIATE REPLACEMENT SERVICE.—

''(A) NEGOTIATIONS.—If the replacement of preexisting intercity rail passenger service occurs concurrent with or within a reasonable time before the commencement of the

replacing entity's rail passenger service, the replacing entity shall give written notice of its plan to replace existing rail passenger service to the authorized collective bargaining agent or agents for the potentially adversely affected employees of the predecessor provider at least 90 days before the date on which it plans to commence service. Within 5 days after the date of receipt of such written notice, negotiations between the replacing entity and the collective bargaining agent or agents for the employees of the predecessor provider shall commence for the purpose of reaching agreement with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1). The negotiations shall continue for 30 days or until an agreement is reached, whichever is sooner. If at the end of 30 days the parties have not entered into an agreement with respect to all such matters, the unresolved issues shall be submitted for arbitration in accordance with the procedure set forth in subparagraph (B).

''(B) ARBITRATION.—If an agreement has not been entered into with respect to all matters set forth in subparagraphs (A) through (D) of paragraph (1) as described in subparagraph (A) of this paragraph, the parties shall select an arbitrator. If the parties are unable to agree upon the selection of such arbitrator within 5 days, either or both parties shall notify the National Mediation Board, which shall provide a list of seven arbitrators with experience in arbitrating rail labor protection disputes. Within 5 days after such notification, the parties shall alternately strike names from the list until only 1 name remains, and that person shall serve as the neutral arbitrator. Within 45 days after selection of the arbitrator, the arbitrator shall conduct a hearing on the dispute and shall render a decision with respect to the unresolved issues among the matters set forth in subparagraphs (A) through (D) of paragraph (1). This decision shall be final, binding, and conclusive upon the parties. The salary and expenses of the arbitrator shall be borne equally by the parties; all other expenses shall be paid by the party incurring them.

''(3) SERVICE COMMENCEMENT.—A replacing entity under this subsection shall commence service only after an agreement is entered into with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1) or the decision of the arbitrator has been rendered.

''(4) SUBSEQUENT REPLACEMENT OF SERVICE.—If the replacement of existing rail passenger service takes place within 3 years after the replacing entity commences intercity passenger rail service, the replacing entity and the collective bargaining agent or agents for the adversely affected employees of the predecessor provider shall enter into an agreement with respect to the matters set forth in subparagraphs (A) through (D) of paragraph (1). If the parties have not entered into an agreement with respect to all such matters within 60 days after the date on which the replacing entity replaces the predecessor provider, the parties shall select an arbitrator using the procedures set forth in paragraph (2)(B), who shall, within 20 days after the commencement of the arbitration, conduct a hearing and decide all unresolved issues. This decision shall be final, binding, and conclusive upon the parties.

''(e) INAPPLICABILITY TO CERTAIN RAIL OPERATIONS.— Nothing in this section applies to—

''(1) commuter rail passenger transportation (as defined in section 24102(4) of this title) operations of a State or local government authority (as those terms are defined in section 5302(11) and (6), respectively, of this title) eligible to receive financial assistance under section 5307 of this title, or to its contractor performing services in connection with commuter rail passenger operations (as so defined);

''(2) the Alaska Railroad or its contractors; or

''(3) the National Railroad Passenger Corporation's access rights to railroad rights of way and facilities under current law.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of chapters for the title is amended by inserting the following after the item relating to chapter 243:

''244. Intercity passenger rail service capital assistance ..... 24401''.

''(2) The chapter analysis for subtitle V is amended by inserting the following after the item relating to chapter 243:

''244. Intercity passenger rail service capital assistance ..... 24401''.

SEC. 302. STATE RAIL PLANS.

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end the following:

''CHAPTER 225. STATE RAIL PLANS AND HIGH PRIORITY PROJECTS

''Sec.
''22501. Definitions.
''22502. Authority.
''22503. Purposes.
''22504. Transparency; coordination; review.
''22505. Content.
''22506. Review.

''§ 22501. Definitions

''In this subchapter:

''(1) PRIVATE BENEFIT.—

''(A) IN GENERAL.—The term 'private benefit'—

''(i) means a benefit accrued to a person or private entity, other than the National Railroad Passenger Corporation, that directly improves the economic and competitive condition of that person or entity through improved assets, cost reductions, service improvements, or any other means as defined by the Secretary; and

''(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

''(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

''(2) PUBLIC BENEFIT.—

''(A) IN GENERAL.—The term 'public benefit'—

''(i) means a benefit accrued to the public in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; and

''(ii) shall be determined on a project-by-project basis, based upon an agreement between the parties.

''(B) CONSULTATION.—The Secretary may seek the advice of the States and rail carriers in further defining this term.

''(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.

''(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Governor of the State or a State law for preparation, maintenance, coordination, and administration of the State rail plan.''.

''§ 22502. Authority

''(a) IN GENERAL.—Each State may prepare and maintain a State rail plan in accordance with the provisions of this subchapter.

''(b) REQUIREMENTS.—For the preparation and periodic revision of a State rail plan, a State shall—

''(1) establish or designate a State rail transportation authority to prepare, maintain, coordinate, and administer the plan;

''(2) establish or designate a State rail plan approval authority to approve the plan;

''(3) submit the State's approved plan to the Secretary of Transportation for review; and

''(4) revise and resubmit a State-approved plan no less frequently than once every 5 years for reapproval by the Secretary.

''§ 22503. Purposes

''(a) PURPOSES.—The purposes of a State rail plan are as follows:

''(1) To set forth State policy involving freight and passenger rail transportation, including commuter rail operations, in the State.

''(2) To establish the period covered by the State rail plan.

''(3) To present priorities and strategies to enhance rail service in the State that benefits the public.

''(4) To serve as the basis for Federal and State rail investments within the State.

''(b) COORDINATION.—A State rail plan shall be coordinated with other State transportation planning goals and programs and set forth rail transportation's role within the State transportation system.

''§ 22504. Transparency; coordination; review

''(a) PREPARATION.—A State shall provide adequate and reasonable notice and opportunity for comment and other input to the public, rail carriers, commuter and transit authorities operating in, or affected by rail operations within the State, units of local government, and other interested parties in the preparation and review of its State rail plan.

''(b) INTERGOVERNMENTAL COORDINATION.—A State shall review the freight and passenger rail service activities and initiatives by regional planning agencies, regional transportation authorities, and municipalities within the State, or in the region in which the State is located, while preparing the plan, and shall include any recommendations made by such agencies, authorities, and municipalities as deemed appropriate by the State.

''§ 22505. Content

''(a) IN GENERAL.—Each State rail plan shall contain the following:

''(1) An inventory of the existing overall rail transportation system and rail services and facilities within the State and an analysis of the role of rail transportation within the State's surface transportation system.

''(2) A review of all rail lines within the State, including proposed high speed rail corridors and significant rail line segments not currently in service.

''(3) A statement of the State's passenger rail service objectives, including minimum service levels, for rail transportation routes in the State.

''(4) A general analysis of rail's transportation, economic, and environmental impacts in the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts.

''(5) A long-range rail investment program for current and future freight and passenger infrastructure in the State that meets the requirements of subsection (b).

''(6) A statement of public financing issues for rail projects and service in the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development.

''(7) An identification of rail infrastructure issues within the State that reflects consultation with all relevant stake holders.

''(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports, and prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State.

''(9) A review of publicly funded projects within the State to improve rail transportation safety and security, including all major projects funded under section 130 of title 23.

''(10) A performance evaluation of passenger rail services operating in the State, including possible improvements in those services, and a description of strategies to achieve those improvements.

''(11) A compilation of studies and reports on high-speed rail corridor development within the State not included in a previous plan under this subchapter, and a plan for funding any recommended development of such corridors in the State.

''(12) A statement that the State is in compliance with the requirements of section 22102.

''(b) LONG-RANGE SERVICE AND INVESTMENT PROGRAM.—

''(1) PROGRAM CONTENT.—A long-range rail investment program included in a State rail plan under subsection (a)(5) shall include the following matters:

''(A) A list of any rail capital projects expected to be undertaken or supported in whole or in part by the State.

''(B) A detailed funding plan for those projects.

''(2) PROJECT LIST CONTENT.—The list of rail capital projects shall contain—

''(A) a description of the anticipated public and private benefits of each such project; and

''(B) a statement of the correlation between—

''(i) public funding contributions for the projects; and

''(ii) the public benefits.

''(3) CONSIDERATIONS FOR PROJECT LIST.—In preparing the list of freight and intercity passenger rail capital projects, a State rail transportation authority should take into consideration the following matters:

''(A) Contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement.

''(B) Rail capacity and congestion effects.

''(C) Effects on highway, aviation, and maritime capacity, congestion, or safety.

''(D) Regional balance.

''(E) Environmental impact.

''(F) Economic and employment impacts.

''(G) Projected ridership and other service measures for passenger rail projects.

''§ 22506. Review

The Secretary shall prescribe procedures for States to submit State rail plans for review under this title, including standardized format and data requirements. State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2007 that substantially meet the requirements of this chapter, as determined by the Secretary, shall be deemed by the Secretary to have met the requirements of this chapter''.

(b) CONFORMING AMENDMENTS.—

(1) The table of chapters for the title is amended by inserting the following after the item relating to chapter 223:

''225. State rail plans ..... 22501''.

''(2) The chapter analysis for subtitle V is amended by inserting the following after the item relating to chapter 223:

''225. State rail plans ..... 24401''.

SEC. 303. NEXT GENERATION CORRIDOR TRAIN EQUIPMENT POOL.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, Amtrak shall establish a Next Generation Corridor Equipment Pool Committee, comprised of representatives of Amtrak, the Federal Railroad Administration, and interested States. The purpose of the Committee shall be to design, develop specifications for, and procure standardized next-generation corridor equipment.

(b) FUNCTIONS.—The Committee may—

(1) determine the number of different types of equipment required, taking into account variations in operational needs and corridor infrastructure;

(2) establish a pool of equipment to be used on corridor routes funded by participating States; and

(3) subject to agreements between Amtrak and States, utilize services provided by Amtrak to design, maintain and remanufacture equipment.

(c) COOPERATIVE AGREEMENTS.—Amtrak and States participating in the Committee may enter into agreements for the funding, procurement, remanufacture, ownership and management of corridor equipment, including equipment currently owned or leased by Amtrak and next-generation corridor equipment acquired as a result of the Committee's actions, and may establish a corporation, which may be owned or jointly-owned by Amtrak, participating States or other entities, to perform these functions.

(d) FUNDING.—In addition to the authorization provided in section 105 of this Act, capital projects to carry out the purposes of this section shall be eligible for grants made pursuant to chapter 244 of title 49, United States Code.

SEC. 304. FEDERAL RAIL POLICY.

Section 103 is amended—

(1) by inserting ''IN GENERAL.—'' before ''The Federal'' in subsection (a);

(2) by striking the second and third sentences of subsection (a);

(3) by inserting ''ADMINISTRATOR.—'' before ''The head'' in subsection (b);

(4) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively and by inserting after subsection (b) the following:

''(c) SAFETY.—To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.'';

(5) by inserting ''POWERS AND DUTIES.—'' before ''The'' in subsection (d), as redesignated;

(6) by striking ''and'' after the semicolon in paragraph (1) of subsection (d), as redesignated;

(7) by redesignating paragraph (2) of subsection (d), as redesignated, as paragraph (3) and inserting after paragraph (1) the following:

''(2) the duties and powers related to railroad policy and development under subsection (e); and'';

(8) by inserting ''TRANSFERS OF DUTY.—'' before ''A duty'' in subsection (e), as redesignated;

(9) by inserting ''CONTRACTS, GRANTS, LEASES, COOPERATIVE AGREEMENTS, AND SIMILAR TRANSACTIONS.—'' before ''Subject'' in subsection (f), as redesignated;

(10) by striking the last sentence in subsection (f), as redesignated; and

(11) by adding at the end the following:

''(g) ADDITIONAL DUTIES OF THE ADMINISTRATOR.—The Administrator shall—

''(1) provide assistance to States in developing State rail plans prepared under chapter 225 and review all State rail plans submitted under that section;

''(2) develop a long range national rail plan that is consistent with approved State rail plans and the rail needs of the Nation, as determined by the Secretary in order to promote an integrated, cohesive, efficient, and optimized national rail system for the movement of goods and people;

''(3) develop a preliminary national rail plan within a year after the date of enactment of the Passenger Rail Investment and Improvement Act of 2007;

''(4) develop and enhance partnerships with the freight and passenger railroad industry, States, and the public concerning rail development;

''(5) support rail intermodal development and high-speed rail development, including high speed rail planning;

''(6) ensure that programs and initiatives developed under this section benefit the public and work toward achieving regional and national transportation goals; and

''(7) facilitate and coordinate efforts to assist freight and passenger rail carriers, transit agencies and authorities, municipalities, and States in passenger-freight service integration on shared rights of way by providing neutral assistance at the joint request of affected rail service providers and infrastructure owners relating to operations and capacity analysis, capital requirements, operating costs, and other research and planning related to corridors shared by passenger or commuter rail service and freight rail operations.

''(h) PERFORMANCE GOALS AND REPORTS.—

''(1) PERFORMANCE GOALS.—In conjunction with the objectives established and activities undertaken under section 103(e) of this title, the Administrator shall develop a schedule for achieving specific, measurable performance goals.

''(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each goal and the additional duties required under section 103(e).

''(3) SUBMISSION WITH PRESIDENT'S BUDGET.—Beginning with fiscal year 2009 and each fiscal year thereafter, the Secretary shall submit to Congress, at the same time as the President's budget submission, the Administration's performance goals and schedule developed under paragraph (1), including an assessment of the progress of the Administration toward achieving its performance goals.''.

SEC. 305. RAIL COOPERATIVE RESEARCH PROGRAM.

(a) ESTABLISHMENT AND CONTENT.—Chapter 249 is amended by adding at the end the following:

''§ 24910. Rail cooperative research program

''(a) IN GENERAL.—The Secretary shall establish and carry out a rail cooperative research program. The program shall—

''(1) address, among other matters, intercity rail passenger and freight rail services, including existing rail passenger and freight technologies and speeds, incrementally enhanced rail systems and infrastructure, and new high-speed wheel-on-rail systems and rail security;

''(2) address ways to expand the transportation of international trade traffic by rail, enhance the efficiency of intermodal interchange at ports and other intermodal terminals, and increase capacity and availability of rail service for seasonal freight needs;

''(3) consider research on the interconnectedness of commuter rail, passenger rail, freight rail, and other rail networks; and

''(4) give consideration to regional concerns regarding rail passenger and freight transportation, including meeting research

needs common to designated high-speed corridors, long-distance rail services, and regional intercity rail corridors, projects, and entities.

''(b) CONTENT.—The program to be carried out under this section shall include research designed—

''(1) to identify the unique aspects and attributes of rail passenger and freight service;

''(2) to develop more accurate models for evaluating the impact of rail passenger and freight service, including the effects on highway and airport and airway congestion, environmental quality, and energy consumption;

''(3) to develop a better understanding of modal choice as it affects rail passenger and freight transportation, including development of better models to predict utilization;

''(4) to recommend priorities for technology demonstration and development;

''(5) to meet additional priorities as determined by the advisory board established under subsection (c), including any recommendations made by the National Research Council;

''(6) to explore improvements in management, financing, and institutional structures;

''(7) to address rail capacity constraints that affect passenger and freight rail service through a wide variety of options, ranging from operating improvements to dedicated new infrastructure, taking into account the impact of such options on operations;

''(8) to improve maintenance, operations, customer service, or other aspects of intercity rail passenger and freight service;

''(9) to recommend objective methodologies for determining intercity passenger rail routes and services, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes;

''(10) to review the impact of equipment and operational safety standards on the further development of high speed passenger rail operations connected to or integrated with non-high speed freight or passenger rail operations; and

''(11) to recommend any legislative or regulatory changes necessary to foster further development and implementation of high speed passenger rail operations while ensuring the safety of such operations that are connected to or integrated with non-high speed freight or passenger rail operations.

''(c) ADVISORY BOARD.—

''(1) ESTABLISHMENT.—In consultation with the heads of appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend research, technology, and technology transfer activities related to rail passenger and freight transportation.

''(2) MEMBERSHIP.—The advisory board shall include—

''(A) representatives of State transportation agencies;

''(B) transportation and environmental economists, scientists, and engineers; and

''(C) representatives of Amtrak, the Alaska Railroad, freight railroads, transit operating agencies, intercity rail passenger agencies, railway labor organizations, and environmental organizations.

''(d) NATIONAL ACADEMY OF SCIENCES.— The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary deems appropriate.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 249 is amended by adding at the end the following:

''24910. Rail cooperative research program.''.

[TITLE IV—PASSENGER RAIL SECURITY AND SAFETY

[SEC. 400. SHORT TITLE.

[This title may be cited as the ''Surface Transportation and Rail Security Act of 2007''.

[SEC. 401. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

[(a) IN GENERAL.—

[(1) VULNERABILITY AND RISK ASSESSMENT.—The Secretary of Homeland Security shall establish a task force, including the Transportation Security Administration, the Department of Transportation, and other appropriate agencies, to complete a vulnerability and risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

[(A) a methodology for conducting the risk assessment, including timelines, that addresses how the Department of Homeland Security will work with the entities describe in subsection (b) and make use of existing Federal expertise within the Department of Homeland Security, the Department of Transportation, and other appropriate agencies;

[(B) identification and evaluation of critical assets and infrastructures;

[(C) identification of vulnerabilities and risks to those assets and infrastructures;

[(D) identification of vulnerabilities and risks that are specific to the transportation of hazardous materials via railroad;

[(E) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment; and

[(F) an account of actions taken or planned by both public and private entities to address identified rail security issues and assess the effective integration of such actions.

[(2) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Secretary has for—

[(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

[(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

[(C) training appropriate railroad or railroad shipper employees in terrorism prevention, passenger evacuation, and response activities;

[(D) conducting public outreach campaigns on passenger railroads;

[(E) deploying surveillance equipment; and

[(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

[(3) PLANS.—The report required by subsection (c) shall include—

[(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide increased security support at high or severe threat levels of alert;

[(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and

[(C) a contingency plan, developed in conjunction with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

[(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

[(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station.

[(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary of Homeland Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials, and other relevant parties.

[(c) REPORT.—

[(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report containing the assessment, prioritized recommendations, and plans required by subsection (a) and an estimate of the cost to implement such recommendations.

[(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

[(d) ANNUAL UPDATES.—The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

[(e) FUNDING.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 416 of this title, there shall be made available to the Secretary of Homeland Security to carry out this section $5,000,000 for fiscal year 2008.

[SEC. 402. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

[(a) IN GENERAL.—Subject to subsection (c) the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), is authorized to make grants to Amtrak—

[(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

[(2) to secure Amtrak trains;

[(3) to secure Amtrak stations;

[(4) to obtain a watch list identification system approved by the Secretary;

[(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

[(6) to hire additional police and security officers, including canine units;

[(7) to expand emergency preparedness efforts; and

[(8) for employee security training.

[(b) CONDITIONS.—The Secretary of Transportation shall disburse funds to Amtrak provided under subsection (a) for projects contained in a systemwide security plan approved by the Secretary of Homeland Security. The plan shall include appropriate

measures to address security awareness, emergency response, and passenger evacuation training.

[(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system and consistent with the risk assessment required under section 401, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

[(d) AVAILABILITY OF FUNDS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 416 of this title, there shall be made available to the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section—

[(1) $63,500,000 for fiscal year 2008;

[(2) $30,000,000 for fiscal year 2009; and

[(3) $30,000,000 for fiscal year 2010.

[Amounts appropriated pursuant to this subsection shall remain available until expended.

[SEC. 403. FIRE AND LIFE-SAFETY IMPROVEMENTS.

[(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

[(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 416(b) of this title, there shall be made available to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

[(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

[(A) $100,000,000 for fiscal year 2008;

[(B) $100,000,000 for fiscal year 2009;

[(C) $100,000,000 for fiscal year 2010; and

[(D) $100,000,000 for fiscal year 2011.

[(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

[(A) $10,000,000 for fiscal year 2008;

[(B) $10,000,000 for fiscal year 2009;

[(C) $10,000,000 for fiscal year 2010; and

[(D) $10,000,000 for fiscal year 2011.

[(3) For the Washington, DC, Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

[(A) $8,000,000 for fiscal year 2008;

[(B) $8,000,000 for fiscal year 2009;

[(C) $8,000,000 for fiscal year 2010; and

[(D) $8,000,000 for fiscal year 2011.

[(c) INFRASTRUCTURE UPGRADES.—Out of funds appropriated pursuant to section 416(b) of this title, there shall be made available to the Secretary of Transportation for fiscal year 2008 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

[(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts made available pursuant to this section shall remain available until expended.

[(e) PLANS REQUIRED.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

[(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

[(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, and periodic status reports.

[(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

[(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

[(1) consider the extent to which rail carriers other than Amtrak use or plan to use the tunnels;

[(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

[(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

[SEC. 404. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

[(a) SECURITY IMPROVEMENT GRANTS.—The Secretary of Homeland Security, through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for rail passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security vulnerabilities and risks identified under section 401, including—

[(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

[(2) accommodation of rail cargo or passenger screening equipment at the United States-Mexico border, the United States-Canada border, or other ports of entry;

[(3) the security of hazardous material transportation by rail;

[(4) secure intercity passenger rail stations, trains, and infrastructure;

[(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

[(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

[(7) public security awareness campaigns for passenger train operations;

[(8) the sharing of intelligence and information about security threats;

[(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

[(10) to hire additional police and security officers, including canine units; and

[(11) other improvements recommended by the report required by section 401, including infrastructure, facilities, and equipment upgrades.

[(b) ACCOUNTABILITY.—The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.

[(c) ALLOCATION.—The Secretary shall distribute the funds authorized by this section based on risk and vulnerability as determined under section 401, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for intercity passenger rail security, the Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

[(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 402(b) of this title.

[(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 401 the Secretary of Homeland Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

[(1) in excess of $45,000,000 to Amtrak; or

[(2) in excess of $80,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

[(f) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 416 of this title,, there shall be made available to the Secretary of Homeland Security to carry out this section—

[(1) $100,000,000 for fiscal year 2008;

[(2) $100,000,000 for fiscal year 2009; and

[(3) $100,000,000 for fiscal year 2010.

Amounts made available pursuant to this subsection shall remain available until expended.

[(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk.

[SEC. 405. RAIL SECURITY RESEARCH AND DEVELOPMENT.

[(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary of Homeland Security, through the Under Secretary for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation shall carry out a research and development program for the purpose of improving freight and intercity passenger rail

security that may include research and development projects to—

[(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

[(2) test new emergency response techniques and technologies;

[(3) develop improved freight technologies, including—

[(A) technologies for sealing rail cars;

[(B) automatic inspection of rail cars;

[(C) communication-based train controls; and

[(D) emergency response training;

[(4) test wayside detectors that can detect tampering with railroad equipment;

[(5) support enhanced security for the transportation of hazardous materials by rail, including—

[(A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher;

[(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 404(g) of this title); and

[(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

[(6) other projects that address vulnerabilities and risks identified under section 401.

[(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary of Homeland Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Homeland Security and the Department of Transportation. The Secretary shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation, if the Secretary of Transportation—

[(1) is already sponsoring a research and development project in a similar area; or

[(2) has a unique facility or capability that would be useful in carrying out the project.

[(c) GRANTS AND ACCOUNTABILITY.—To carry out the research and development program, the Secretary may award grants to the entities described in section 404(a) and shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.

[(d) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 416 of this title,, there shall be made available to the Secretary of Homeland Security to carry out this section—

[(1) $33,000,000 for fiscal year 2008;

[(2) $33,000,000 for fiscal year 2009; and

[(3) $33,000,000 for fiscal year 2010.

[Amounts made available pursuant to this subsection shall remain available until expended.

[SEC. 406. OVERSIGHT AND GRANT PROCEDURES.

[(a) SECRETARIAL OVERSIGHT.—The Secretary of Homeland Security may use up to 0.5 percent of amounts made available for capital projects under this title to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

[(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts to audit and review the safety, procurement, management, and financial compliance of a recipient of amounts under this title.

[(c) PROCEDURES FOR GRANT AWARD.—The Secretary shall, within 90 days after the date of enactment of this Act, prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107 of title 46, United States Code.

[SEC. 407. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

[(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

["§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

[''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Surface Transportation and Rail Security Act of 2007 Amtrak shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

[''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

[''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

[''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

[''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

[''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

[''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

[''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

[''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

[''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release any personal information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

[''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

[''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

[''(f) FUNDING.—Out of funds appropriated pursuant to section 416(b) of the Surface Transportation and Rail Security Act of 2007, there shall be made available to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2007 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.''.

[(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

[''24316. Plan to assist families of passengers involved in rail passenger accidents.''.

[SEC. 408. NORTHERN BORDER RAIL PASSENGER REPORT.

[Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), the Secretary of Transportation, heads of other appropriate Federal departments, and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that contains—

[(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

[(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

[(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

[(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

[(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers traveling between the United States and Canada to the Department of Homeland Security;

[(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers;

[(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security; and

[(8) an analysis of the feasibility of reinstating in-transit inspections onboard international Amtrak trains.

[SEC. 409. RAIL WORKER SECURITY TRAINING PROGRAM.

[(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare front-line workers for potential threat conditions. The guidance shall take into consideration any current security training requirements or best practices.

[(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall include elements, as appropriate to passenger and freight rail service, that address the following:

[(1) Determination of the seriousness of any occurrence.

[(2) Crew communication and coordination.

[(3) Appropriate responses to defend or protect oneself.

[(4) Use of protective devices.

[(5) Evacuation procedures.

[(6) Psychology of terrorists to cope with hijacker behavior and passenger responses.

[(7) Situational training exercises regarding various threat conditions.

[(8) Any other subject the Secretary considers appropriate.

[(c) RAILROAD CARRIER PROGRAMS.—Not later than 90 days after the Secretary of Homeland Security issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for review. Not later than 30 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary for the program to meet the guidance requirements. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them.

[(d) TRAINING.—Not later than 1 year after the Secretary reviews the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program. The Secretary shall review implementation of the training program of a representative sample of railroad carriers and report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary.

[(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) as appropriate to reflect new or different security threats. Railroad carriers shall revise their programs accordingly and provide additional training to their front-line workers within a reasonable time after the guidance is updated.

[(f) FRONT-LINE WORKERS DEFINED.—In this section, the term ''front-line workers'' means security personnel, dispatchers, train operators, other onboard employees, maintenance and maintenance support personnel, bridge tenders, as well as other appropriate employees of railroad carriers, as defined by the Secretary.

[(g) OTHER EMPLOYEES.—The Secretary of Homeland Security shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate.

[SEC. 410. WHISTLEBLOWER PROTECTION PROGRAM.

[(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following:

[''§ 20118. Whistleblower protection for rail security matters

[''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

[''(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a reasonably perceived threat, in good faith, to security; or

[''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a reasonably perceived threat, in good faith, to security; or

[''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

[''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

[''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this subtitle, including the burdens of proof, applies to any complaint brought under this section.

[''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

[''(e) DISCLOSURE OF IDENTITY.—

[''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

[''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

[(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20117 the following:

[''20118. Whistleblower protection for rail security matters.''.

[SEC. 411. HIGH HAZARD MATERIAL SECURITY THREAT MITIGATION PLANS.

[(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, as defined in section 404(g) of this title to develop a high hazard material security threat mitigation plan containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets. The plan, and any information submitted to the Secretary under this section shall be protected as sensitive security information under the regulations prescribed under section 114(s) of title 49, United States Code.

[(b) IMPLEMENTATION.—A high hazard material security threat mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the Homeland Security Advisory System are high or severe and specific intelligence of probable or imminent threat exists towards—

[(1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or

[(2) rail infrastructure or operations within the immediate vicinity of a high-consequence target.

[(c) COMPLETION AND REVIEW OF PLANS.—

[(1) PLANS REQUIRED.—Each rail carrier shall—

[(A) submit a list of routes used to transport high hazard materials to the Secretary of Homeland Security within 60 days after the date of enactment of this Act;

[(B) develop and submit a high hazard material security threat mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary; and

[(C) submit any subsequent revisions to the plan to the Secretary within 30 days after making the revisions.

[(2) REVIEW AND UPDATES.—The Secretary, with assistance of the Secretary of Transportation, shall review the plans and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them. Each rail carrier shall update and resubmit its plan for review not less than every 2 years.

[(d) DEFINITIONS.—In this section:

[(1) The term ''high-consequence target'' means a building, buildings, infrastructure, public space, or natural resource designated by the Secretary of Homeland Security that is viable terrorist target of national significance, the attack of which could result in—

[(A) catastrophic loss of life; and

[(B) significantly damaged national security and defense capabilities; or

[(C) national economic harm.

[(2) The term ''catastrophic impact zone'' means the area immediately adjacent to, under, or above an active railroad right-of-

way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause—

[(A) loss of life; or

[(B) significant damage to property or structures.

[(3) The term ''rail carrier'' has the meaning given that term by section 10102(5) of title 49, United States Code.

[SEC. 412. MEMORANDUM OF AGREEMENT.

[(a) MEMORANDUM OF AGREEMENT.—Similar to the public transportation security annex between the two departments signed on September 8, 2005, within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute and develop an annex to the memorandum of agreement between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

[(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

[SEC. 413. RAIL SECURITY ENHANCEMENTS.

[(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended—

[(1) by inserting ''(a) IN GENERAL.—'' before ''Under''; and

[(2) by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

[(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

[SEC. 414. PUBLIC AWARENESS.

[Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary of Homeland Security shall implement the plan developed under this section.

[SEC. 415. RAILROAD HIGH HAZARD MATERIAL TRACKING.

[(a) WIRELESS COMMUNICATIONS.—

[(1) IN GENERAL.—In conjunction with the research and development program established under section 405 and consistent with the results of research relating to wireless tracking technologies, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 404(g) of this title) with wireless terrestrial or satellite communications technology that provides—

[(A) car position location and tracking capabilities;

[(B) notification of rail car depressurization, breach, or unsafe temperature; and

[(C) notification of hazardous material release.

[(2) COORDINATION.—In developing the program required by paragraph (1), the Secretary shall—

[(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Transportation; and

[(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs.

[(b) FUNDING.—Out of funds appropriated pursuant to section 114(u) of title 49, United States Code, as amended by section 416 of this title, there shall be made available to the Secretary of Homeland Security to carry out this section $3,000,000 for each of fiscal years 2008, 2009, and 2010.

[SEC. 416. AUTHORIZATION OF APPROPRIATIONS.

[(a) TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION.—Section 114 of title 49, United States Code, is amended by adding at the end thereof the following:

[''(u) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for rail security—

[''(1) $205,000,000 for fiscal year 2008;

[''(2) $166,000,000 for fiscal year 2009; and

[''(3) $166,000,000 for fiscal year 2010.''.

[(b) DEPARTMENT OF TRANSPORTATION.—There are authorized to be appropriated to the Secretary of Transportation to carry out this title and sections 20118 and 24316 of title 49, United States Code, as added by this title—

[(1) $121,000,000 for fiscal year 2008;

[(2) $118,000,000 for fiscal year 2009;

[(3) $118,000,000 for fiscal year 2010; and

[(4) $118,000,000 for fiscal year 2011.

TITLE IV—IMPROVED RAIL SECURITY

SEC. 401. DEFINITIONS.

In this title:

(1) HIGH HAZARD MATERIALS.—The term ''high hazard materials'' means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, anhydrous ammonia, and other hazardous materials that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk.

(2) SECRETARY.—The term ''Secretary'' refers to the Secretary of Homeland Security unless otherwise noted.

SEC. 402. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) RISK ASSESSMENT.—The Secretary shall establish a task force, including the Transportation Security Administration and other agencies within the Department, the Department of Transportation, and other appropriate Federal agencies, to complete a risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) a methodology for conducting the risk assessment, including timelines, that addresses how the Department of Homeland Security will work with the entities described in subsection (b) and make use of existing Federal expertise within the Department of Homeland Security, the Department of Transportation, and other appropriate agencies;

(B) identification and evaluation of critical assets and infrastructures;

(C) identification of risks to those assets and infrastructures;

(D) identification of risks that are specific to the transportation of hazardous materials via railroad;

(E) identification of risks to passenger and cargo security, transportation infrastructure (including rail tunnels used by passenger and freight railroads in high threat urban areas), protection systems, operations, communications systems, employee training, emergency response planning, and any other area identified by the assessment;

(F) an assessment of public and private operational recovery plans to expedite, to the maximum extent practicable, the return of an adversely affected freight or passenger rail transportation system or facility to its normal performance level after a major terrorist attack or other security event on that system or facility; and

(G) an account of actions taken or planned by both public and private entities to address identified rail security issues and assess the effective integration of such actions.

(2) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service or on operations served or otherwise affected by rail service;

(B) deploying equipment and personnel to detect security threats, including those posed by explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training appropriate railroad or railroad shipper employees in terrorism prevention, preparedness, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads regarding security;

(E) deploying surveillance equipment;

(F) identifying the immediate and long-term costs of measures that may be required to address those risks; and

(G) public and private sector sources to fund such measures.

(3) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal Government to provide adequate security support at high or severe threat levels of alert;

(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and

(C) a contingency plan, developed in coordination with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, offerers of

hazardous materials, public safety officials, and other relevant parties. In developing the risk assessment required under this section, the Secretary shall utilize relevant existing risk assessments developed by the Department or other Federal agencies, and, as appropriate, assessments developed by other public and private stakeholders.

(c) REPORT.—

(1) CONTENTS.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives a report containing—

(A) the assessment, prioritized recommendations, and plans required by subsection (a); and

(B) an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(d) ANNUAL UPDATES.—The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) FUNDING.—Out of funds appropriated pursuant to section 114(v) of title 49, United States Code, as amended by section 418 of this title, there shall be made available to the Secretary to carry out this section $5,000,000 for fiscal year 2008.

SEC. 403. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL.—

(1) GRANTS.—Subject to subsection (c) the Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), is authorized to make grants to Amtrak in accordance with the provisions of this section.

(2) GENERAL PURPOSES.—The Secretary may make such grants for the purposes of—

(A) protecting underwater and underground assets and systems;

(B) protecting high risk and high consequence assets identified through system-wide risk assessments;

(C) providing counter-terrorism training;

(D) providing both visible and unpredictable deterrence; and

(E) conducting emergency preparedness drills and exercises.

(3) SPECIFIC PROJECTS.—The Secretary shall make such grants—

(A) to secure major tunnel access points and ensure tunnel integrity in New York, New Jersey, Maryland, and Washington, DC;

(B) to secure Amtrak trains;

(C) to secure Amtrak stations;

(D) to obtain a watch list identification system approved by the Secretary;

(E) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(F) to hire additional police officers, special agents, security officers, including canine units, and to pay for other labor costs directly associated with security and terrorism prevention activities;

(G) to expand emergency preparedness efforts; and

(H) for employee security training.

(b) CONDITIONS.—The Secretary of Transportation shall disburse funds to Amtrak provided under subsection (a) for projects contained in a systemwide security plan approved by the Secretary. Amtrak shall develop the security plan in consultation with constituent States and other relevant parties. The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training and shall be consistent with State security plans to the maximum extent practicable.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system and consistent with the risk assessment required under section 403, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Out of funds appropriated pursuant to section 114(v) of title 49, United States Code, as amended by section 418 of this title, there shall be made available to the Secretary and the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section—

(A) $63,500,000 for fiscal year 2008;

(B) $30,000,000 for fiscal year 2009; and

(C) $30,000,000 for fiscal year 2010.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 404. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation, in consultation with the Secretary, is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, New Jersey, Maryland, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 418(b) of this title, there shall be made available to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York and New Jersey tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2008;

(B) $100,000,000 for fiscal year 2009;

(C) $100,000,000 for fiscal year 2010; and

(D) $100,000,000 for fiscal year 2011.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2008;

(B) $10,000,000 for fiscal year 2009;

(C) $10,000,000 for fiscal year 2010; and

(D) $10,000,000 for fiscal year 2011.

(3) For the Washington, DC, Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2008;

(B) $8,000,000 for fiscal year 2009;

(C) $8,000,000 for fiscal year 2010; and

(D) $8,000,000 for fiscal year 2011.

(c) INFRASTRUCTURE UPGRADES.—Out of funds appropriated pursuant to section 418(b) of this title, there shall be made available to the Secretary of Transportation for fiscal year 2008 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts made available pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, and periodic status reports.

(f) REVIEW OF PLANS.—

(1) IN GENERAL.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak.

(2) INCOMPLETE OR DEFICIENT PLAN.—If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review.

(3) APPROVAL OF PLAN.—Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall—

(A) identify in writing to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives the portions of the plan the Secretary finds incomplete or deficient;

(B) approve all other portions of the plan;

(C) obligate the funds associated with those other portions; and

(D) execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use or plan to use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

SEC. 405. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Secretary, in consultation with Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies or officials, is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials offerers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for rail passenger facilities and infrastructure not owned by Amtrak), and to Amtrak for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security risks identified under section 402, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of rail cargo or passenger screening equipment at the United States-Mexico border, the United States-Canada border, or other ports of entry;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 402, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.

(c) ALLOCATION.—The Secretary shall distribute the funds authorized by this section based on risk as determined under section 402, and shall encourage non-Federal financial participation in projects funded by grants awarded under this section. With respect to grants for intercity passenger rail security, the Secretary shall also take into account passenger volume and whether stations or facilities are used by commuter rail passengers as well as intercity rail passengers. Not later than 240 days after the date of enactment of this Act, the Secretary shall provide a report to the Committees on Commerce, Science and Transportation and Homeland Security and Governmental Affairs in the Senate and the Committee on Homeland Security in the House on the feasibility and appropriateness of requiring a non-Federal match for the grants authorized in subsection (a).

(d) CONDITIONS.—Grants awarded by the Secretary to Amtrak under subsection (a) shall be disbursed to Amtrak through the Secretary of Transportation. The Secretary of Transportation may not disburse such funds unless Amtrak meets the conditions set forth in section 403(b) of this title.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 402 the Secretary determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made cumulatively over the period authorized by this title—

(1) in excess of $45,000,000 to Amtrak; or

(2) in excess of $80,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Out of funds appropriated pursuant to section 114(v) of title 49, United States Code, as amended by section 418 of this title, there shall be made available to the Secretary to carry out this section—

(A) $100,000,000 for fiscal year 2008;

(B) $100,000,000 for fiscal year 2009; and

(C) $100,000,000 for fiscal year 2010.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 406. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary, through the Under Secretary for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the risk of terrorist attacks on rail transportation, including risks posed by explosives and hazardous chemical, biological, and radioactive substances to intercity rail passengers, facilities, and equipment;

(2) test new emergency response techniques and technologies;

(3) develop improved freight rail security technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 401 of this title); and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects that address risks identified under section 402.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Homeland Security and the Department of Transportation. The Secretary shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation, if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) GRANTS AND ACCOUNTABILITY.—To carry out the research and development program, the Secretary may award grants to the entities described in section 405(a) and shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Out of funds appropriated pursuant to section 114(v) of title 49, United States Code, as amended by section 418 of this title, there shall be made available to the Secretary to carry out this section—

(A) $33,000,000 for fiscal year 2008;

(B) $33,000,000 for fiscal year 2009; and

(C) $33,000,000 for fiscal year 2010.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 407. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary may award contracts to audit and review the safety, security, procurement, management, and financial compliance of a recipient of amounts under this title.

(b) PROCEDURES FOR GRANT AWARD.—The Secretary shall, within 180 days after the date of enactment of this Act, prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107 of title 46, United States Code.

(c) ADDITIONAL AUTHORITY.—The Secretary may issue nonbinding letters under similar terms to those issued pursuant to section 47110(e) of title 49, United States Code, to sponsors of rail projects funded under this title.

SEC. 408. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Transportation Security and Interoperable Communication Capabilities Act, Amtrak shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—Neither the National Transportation Safety Board, the Secretary of Transportation, the Secretary of Homeland Security, nor Amtrak may release any personal information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak under this section in preparing or providing a passenger list, or in

providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) FUNDING.—Out of funds appropriated pursuant to section 418(b) of the Passenger Rail Investment and Improvement Act of 2007, there shall be made available to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2008 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''24316. Plan to assist families of passengers involved in rail passenger accidents.''.

SEC. 409. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), the Secretary of Transportation, heads of other appropriate Federal departments, and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing pre-screened passenger lists for rail passengers traveling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers;

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing pre-screened passenger lists to the Department of Homeland Security; and

(8) an analysis of the feasibility of reinstating in-transit inspections onboard international Amtrak trains.

SEC. 410. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers and shippers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare front-line workers for potential threat conditions. The guidance shall take into consideration any current security training requirements or best practices.

(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall include elements appropriate to passenger and freight rail service that address the following:

(1) Determination of the seriousness of any occurrence.

(2) Crew communication and coordination.

(3) Appropriate responses to defend or protect oneself.

(4) Use of protective devices.

(5) Evacuation procedures.

(6) Psychology, behavior, and methods of terrorists, including observation and analysis.

(7) Situational training exercises regarding various threat conditions.

(8) Any other subject the Secretary considers appropriate.

(c) RAILROAD CARRIER PROGRAMS.—Not later than 90 days after the Secretary issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for review. Not later than 90 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary for the program to meet the guidance requirements. A railroad carrier shall respond to the Secretary's comments within 90 days after receiving them.

(d) TRAINING.—Not later than 1 year after the Secretary reviews the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program. The Secretary shall review implementation of the training program of a representative sample of railroad carriers and report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary.

(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) as appropriate to reflect new or different security threats. Railroad carriers shall revise their programs accordingly and provide additional training to their front-line workers within a reasonable time after the guidance is updated.

(f) FRONT-LINE WORKERS DEFINED.—In this section, the term ''front-line workers'' means security personnel, dispatchers, locomotive engineers, conductors, trainmen, other onboard employees, maintenance and maintenance support personnel, bridge tenders, as well as other appropriate employees of railroad carriers, as defined by the Secretary.

(g) OTHER EMPLOYEES.—The Secretary shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate.

SEC. 411. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following:

''§ 20118. Whistleblower protection for rail security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee because the employee, whether acting for the employee or as a representative, has—

''(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a reasonably perceived threat, in good faith, to security;

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a reasonably perceived threat, in good faith, to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this subtitle, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or Secretary of Homeland Security may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.

''(f) PROCESS FOR REPORTING PROBLEMS.—

''(1) ESTABLISHMENT OF REPORTING PROCESS.—The Secretary shall establish, and provide information to the public regarding, a process by which any person may submit a report to the Secretary regarding railroad security problems, deficiencies, or vulnerabilities.

''(2) CONFIDENTIALITY.—The Secretary shall keep confidential the identity of a person who submits a report under paragraph (1) and any such report shall be treated as a record containing protected information to the extent that it does not consist of publicly available information.

''(3) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary shall respond promptly to such person and acknowledge receipt of the report.

''(4) STEPS TO ADDRESS PROBLEMS.—The Secretary shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps under this title to address any problems or deficiencies identified.

''(5) RETALIATION PROHIBITED.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the compensation to, or terms, conditions, or privileges of the employment of, such employee

because the employee (or a person acting pursuant to a request of the employee) made a report under paragraph (1).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20117 the following:

''20118. Whistleblower protection for rail security matters.''.

SEC. 412. HIGH HAZARD MATERIAL SECURITY RISK MITIGATION PLANS.

(a) IN GENERAL.—The Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, as defined in section 402 of this title, to develop a high hazard material security risk mitigation plan containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets. The plan, and any information submitted to the Secretary under this section shall be protected as sensitive security information under the regulations prescribed under section 114(s) of title 49, United States Code.

(b) IMPLEMENTATION.—A high hazard material security risk mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the Homeland Security Advisory System are high or severe or specific intelligence of probable or imminent threat exists towards—

(1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or

(2) rail infrastructure or operations within the immediate vicinity of a high-consequence target.

(c) COMPLETION AND REVIEW OF PLANS.—

(1) PLANS REQUIRED.—Each rail carrier shall—

(A) submit a list of routes used to transport high hazard materials to the Secretary within 60 days after the date of enactment of this Act;

(B) develop and submit a high hazard material security risk mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary that includes an operational recovery plan to expedite, to the maximum extent practicable, the return of an adversely affected rail system or facility to its normal performance level following a major terrorist attack or other security incident; and

(C) submit any subsequent revisions to the plan to the Secretary within 30 days after making the revisions.

(2) REVIEW AND UPDATES.—The Secretary, with assistance of the Secretary of Transportation, shall review the plans and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them. Each rail carrier shall update and resubmit its plan for review not less than every 2 years.

(d) DEFINITIONS.—In this section:

(1) The term ''high-consequence target'' means property, infrastructure, public space, or natural resource designated by the Secretary that is a viable terrorist target of national significance, the attack of which could result in—

(A) catastrophic loss of life;

(B) significant damage to national security or defense capabilities; or

(C) national economic harm.

(2) The term ''catastrophic impact zone'' means the area immediately adjacent to, under, or above an active railroad right-of-way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause—

(A) loss of life; or

(B) significant damage to property or structures.

(3) The term ''rail carrier'' has the meaning given that term by section 10102(5) of title 49, United States Code.

SEC. 413. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—Section 114 of title 49, United States Code, is amended by adding at the end the following:

''(u) ENFORCEMENT OF REGULATIONS AND ORDERS OF THE SECRETARY OF HOMELAND SECURITY ISSUED UNDER THIS TITLE.—

''(1) APPLICATION OF SUBSECTION.—

''(A) IN GENERAL.—This subsection applies to the enforcement of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title other than a provision of chapter 449.

''(B) VIOLATIONS OF CHAPTER 449.—The penalties for violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under chapter 449 of this title are provided under chapter 463 of this title.

''(C) NONAPPLICATION TO CERTAIN VIOLATIONS.—

''(i) Paragraphs (2) through (5) of this subsection do not apply to violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title—

''(I) involving the transportation of personnel or shipments of materials by contractors where the Department of Defense has assumed control and responsibility;

''(II) by a member of the armed forces of the United States when performing official duties; or

''(III) by a civilian employee of the Department of Defense when performing official duties.

''(ii) Violations described in subclause (I), (II), or (III) of clause (i) shall be subject to penalties as determined by the Secretary of Defense or the Secretary's designee.

''(2) CIVIL PENALTY.—

''(A) IN GENERAL.—A person is liable to the United States Government for a civil penalty of not more than $10,000 for a violation of a regulation prescribed, or order issued, by the Secretary of Homeland Security under this title.

''(B) REPEAT VIOLATIONS.—A separate violation occurs under this paragraph for each day the violation continues.

''(3) ADMINISTRATIVE IMPOSITION OF CIVIL PENALTIES.—

''(A) IN GENERAL.—The Secretary of Homeland Security may impose a civil penalty for a violation of a regulation prescribed, or order issued, under this title. The Secretary shall give written notice of the finding of a violation and the penalty.

''(B) SCOPE OF CIVIL ACTION.—In a civil action to collect a civil penalty imposed by the Secretary under this subsection, the court may not re-examine issues of liability or the amount of the penalty.

''(C) JURISDICTION.—The district courts of the United States have exclusive jurisdiction of civil actions to collect a civil penalty imposed by the Secretary under this subsection if—

''(i) the amount in controversy is more than—

''(I) $400,000, if the violation was committed by a person other than an individual or small business concern; or

''(II) $50,000, if the violation was committed by an individual or small business concern;

''(ii) the action is in rem or another action in rem based on the same violation has been brought; or

''(iii) another action has been brought for an injunction based on the same violation.

''(D) MAXIMUM PENALTY.—The maximum penalty the Secretary may impose under this paragraph is—

''(i) $400,000, if the violation was committed by a person other than an individual or small business concern; or

''(ii) $50,000, if the violation was committed by an individual or small business concern.

''(4) COMPROMISE AND SETOFF.—

''(A) The Secretary may compromise the amount of a civil penalty imposed under this subsection. If the Secretary compromises the amount of a civil penalty under this subparagraph, the Secretary shall—

''(i) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security of the compromised penalty and explain the rationale therefor; and

''(ii) make the explanation available to the public to the extent feasible without compromising security.

''(B) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

''(5) INVESTIGATIONS AND PROCEEDINGS.—Chapter 461 of this title shall apply to investigations and proceedings brought under this subsection to the same extent that it applies to investigations and proceedings brought with respect to aviation security duties designated to be carried out by the Secretary.

''(6) DEFINITIONS.—In this subsection:

''(A) PERSON.—The term 'person' does not include—

''(i) the United States Postal Service; or

''(ii) the Department of Defense.

''(B) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).''.

(b) CONFORMING AMENDMENT.—Section 46301(a)(4) of title 49, United States Code is amended by striking ''or another requirement under this title administered by the Under Secretary of Transportation for Security''.

(c) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. 414. RAIL SECURITY ENHANCEMENTS.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Under''; and

(2) by adding at the end the following:

''(b) ASSIGNMENT.—A rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second rail carrier in carrying out law enforcement duties upon the request of the second rail carrier, at which time the police officer shall be considered to be an employee of the second rail carrier and shall have authority to enforce the laws of any jurisdiction in which the second rail carrier owns property to the same extent as provided in subsection (a).''.

(b) MODEL STATE LEGISLATION.—By no later than September 7, 2007, the Secretary of Transportation shall develop model State legislation to address the problem of entities that claim to be rail carriers in order to establish and run a police force when the entities do not in fact provide rail transportation and shall make it available to State governments. In developing the model State legislation the Secretary shall solicit the input of the States, railroads companies, and railroad employees. The Secretary shall review and, if necessary, revise such model State legislation periodically.

SEC. 415. PUBLIC AWARENESS.

Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad

security. Not later than 9 months after the date of enactment of this Act, the Secretary shall implement the plan developed under this section.

SEC. 416. RAILROAD HIGH HAZARD MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS.—

(1) IN GENERAL.—In conjunction with the research and development program established under section 406 and consistent with the results of research relating to wireless tracking technologies, the Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 402 of this title) with technology that provides—

(A) car position location and tracking capabilities; and

(B) notification of rail car depressurization, breach, unsafe temperature, or release of hazardous materials.

(2) COORDINATION.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Transportation; and

(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs.

(b) FUNDING.—Out of funds appropriated pursuant to section 114(v) of title 49, United States Code, as amended by section 418 of this title, there shall be made available to the Secretary to carry out this section $3,000,000 for each of fiscal years 2008, 2009, and 2010.

SEC. 417. CERTAIN REPORTS SUBMITTED TO SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.

The Senate Committee on Homeland Security and Governmental Affairs shall receive the reports required by the following provisions of law in the same manner and to the same extent that the reports are to be received by the Senate Committee on Commerce, Science, and Transportation:

(1) Section 402(c) of this title.

(2) Section 404(f)(3)(A) of this title.

(3) Section 409 of this title.

(4) Section 410(d) of this title.

SEC. 418. AUTHORIZATION OF APPROPRIATIONS.

(a) TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION.—Section 114 of title 49, United States Code, as amended by section 413, is amended by adding at the end thereof the following:

''(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for rail security—

''(1) $205,000,000 for fiscal year 2008;

''(2) $166,000,000 for fiscal year 2009; and

''(3) $166,000,000 for fiscal year 2010.''.

(b) DEPARTMENT OF TRANSPORTATION.—There are authorized to be appropriated to the Secretary of Transportation to carry out this title and sections 20118 and 24316 of title 49, United States Code, as added by this title—

(1) $121,000,000 for fiscal year 2008;

(2) $118,000,000 for fiscal year 2009;

(3) $118,000,000 for fiscal year 2010; and

(4) $118,000,000 for fiscal year 2011.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendments be agreed to.

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

The committee amendments were agreed to.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

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

Mr. ALEXANDER. I thank the Senator from New Jersey and the Senator from Mississippi for allowing me to proceed.

(The remarks of Mr. ALEXANDER are printed in today's RECORD under ''Morning Business.'')

Mr. ALEXANDER. Mr. President, I thank the bill managers, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, our bill has been sent to the desk, and I want to start off by saying that I am pleased, obviously, that the Senate is considering S. 294, the Passenger Rail Investment and Improvement Act of 2007.

The first thing I want to do is to say thanks to my friend and chief cosponsor of the bill, Senator TRENT LOTT. We have worked together on matters related to transportation in the past, and there is no question that he understands the potential for passenger rail, and his long-standing efforts to improve our country's transportation systems are well known and deeply appreciated.

Like him, I believe this is a critical moment—with delays, unavailability of reliable planning for work, personal opportunity to spend time with kids and family or other activities of choice. Anyone who spends any significant time on our roads does not need reminders that highway congestion is a major problem. In almost every city and town of any size throughout our country, it is experienced.

A recent study by the Texas Transportation Institute showed that highway congestion costs our country over $78 billion per year, including $4.2 billion in lost productivity and 2.9 billion gallons of wasted fuel and an indeterminable loss in the quality of our lives. These things all cascade upon us.

Congestion, however, isn't just limited to our roads. One in four flights was late last year at our airports. At Newark Liberty International Airport, it is almost one in two flights. Other metropolitan regions are experiencing worsening delays. The DOT finally had to cap the number of flights at Chicago's O'Hare Airport a couple of years ago and is considering doing the same thing for Newark and Kennedy Airport in New York. Even airlines are throwing in the towel. The 38 minutes in the air between here and New York City is now scheduled to take almost 2 hours, gate to gate. It is on the schedule—38 minutes of flying time and almost 2 hours to make the trip. It is outrageous. Coupled with long security lines, these delays make air travel increasingly stressful and inconvenient. How about those who are stranded in airplanes, for sometimes as long as 9 hours—stuck in an airplane without the amenities that necessarily should be there, like food and potable water and working restrooms and so forth?

Everyone knows what a difficult day going to the airport can be, or that air travel can be like. Further, everyone knows that the high price of gas has created economic hardship for so many Americans. Some experienced voices are predicting that oil prices in the future, not too distant, can be as high as $200 a barrel, more than twice the current price. One reason why the United States is addicted to oil, as President Bush puts it, is because the Government has not provided other options for travelers. Where reliable rail service is available, people will run to the trains.

Our Nation's passenger railroad, Amtrak, has enjoyed record ridership over the past several years and set a new company record of almost 26 million passengers in the last year. More travelers take the train between Washington and New York City than fly on all the airlines combined between these cities. Amtrak is so popular in the Northeast because people can count on being on time; it is reliable service and it is economical and comfortable.

We see similar results outside of the Northeast corridor, where frequent and reliable passenger service is available. I can tell you from personal experience that riding the train can be a pleasurable experience. Passengers can use their laptops, talk on the phone, have a bite and be productive and not be exhausted when they get there.

Additionally, in most instances, rail service delivers passengers directly to where they need to go in the heart of a city. What a difference that is. You don't have to spend a half hour or an hour to get to the airport a half hour or an hour before the plane takes off so you are ready when the flight is ready to leave. Good passenger rail service is not only good transportation policy, but it is something people in this country are rushing to use.

Everyone is aware now also of the danger of pollution. In the battle against global warming, which is enveloping our country, with erratic weather raising havoc, rail is one of the most effective weapons. To move one passenger a mile, Amtrak emits slightly more than half of the carbon dioxide that airlines do and less than cars as well. Americans want a cleaner option in the air and the water for their children, grandchildren, and future generations than this constant assault on healthy air and water.

In a time where conserving energy and reducing our dependency on foreign oil has never been more important, passenger rail service offers significant fuel-saving benefits. In a time when oil imports continue to expand while prices rise, the quality of life in America is being substantially eroded by these high prices. According to the Department of Energy, airlines on the average consume over 20 percent more energy than Amtrak to move a passenger one mile, while we search for ways to fight against poisoning our atmosphere.

Passenger rail is not just a matter of convenience. It is also an important security asset. One of the lessons we learned on 9/11 was that our country cannot afford to rely on any single mode of transportation. When our aviation system shut down that terrible day, September 11, and for days thereafter, Amtrak was a principal way to reunite thousands of travelers with their families. We also saw chaotic evacuations during Hurricanes Katrina and Rita, with resulting floods, with evacuating motorists stuck for hours and some without cars were left behind altogether. Some investigations showed that with better preparation, passenger trains could have been used to help move thousands out of harm's way.

It is clear that rail service can help move our citizens to safety during emergencies, but you can't do it without the trains and the track that are part of the system. Other nations around the world understand these benefits and, unfortunately, we have been lagging behind. I will never forget a trip I took from Paris to Brussels. There are 18 trains a day between these two cities. You cannot get an airplane that goes between the two. The 210-mile trip takes about 85 minutes. Think about it, 210 miles taking 85 minutes, with trains leaving practically every hour. If you go to Union Station here and travel approximately 210 miles, it is a 3-hour or 2¾-hour train ride. We can do so much better.

The Europeans are not better at these things than we are. They are not smarter than we are. But from Spain to Germany, they have simply made the wise decision to invest in passenger rail. These investments extend worldwide.

Taiwan recently opened its $15 billion, 208-mile rail line this year, where riders can travel its length, 208 miles, in 90 minutes—approximately the length of the trip between Washington, DC, and New York City.

The benefits of these systems are obvious to anyone who travels there. We need the same world-class system in this country. The potential of new rail corridors in our country is enormous. Higher speed, more frequent rail service between Chicago and other Midwestern cities, such as St. Louis, Detroit, and Milwaukee, would revolutionize the way people travel in an entire region of our country.

Likewise, expanded rail service between Atlanta, Charlotte, Richmond, and Washington would allow people options besides having to brave traffic and trucks on Interstate 95.

I am reminded that the train service between Portland, Oregon, and Seattle, Washington, called the Cascades line, is enjoying tremendous ridership, over 600,000 passengers each and every year. It is an invaluable asset. We see something similar in California between San Diego and Los Angeles, where over two and a half million people took the train this past year.

There is enthusiasm for passenger rail service in America, and States are planning rail corridors throughout the country. They are prepared to spend their limited funding for rail projects. But our Federal policies encourage them to build more roads. That is why we need to pass this bill that Senator LOTT and I have presented. Our bill paves the way for an improved modern passenger rail network. It authorizes funding for Amtrak's capital needs as well as State grants for passenger rail. We already make a significant investment in roads. We spend $40 billion a year. By comparison, we spend almost half that amount on airports and air traffic control towers. Our bill will start to address this investment gap by authorizing nearly $2 billion a year for Amtrak in the States that participate over the next 6 years.

A yearly average of $237 million of this money will be used to create a new State grant program for rail projects. Our Amtrak bill also funds the rehabilitation of Amtrak's Northeast corridor and mandates that Amtrak work with the Department of Transportation and the States to develop plans to do so.

Our bill also requires changes at Amtrak—Senator LOTT pursued this diligently—to make sure these funds will help the railroad continue moving in the right direction.

While we had record ridership and revenues last year, we can still improve its efficiency and management practices. That is why our bill would require Amtrak to reform its operations to reduce its Federal operating subsidy by 40 percent over the life of the bill. It also, at the suggestion of the Department of Transportation's inspector general, will allow the Federal Government to refinance Amtrak's $3 billion in outstanding debt.

With this bill, we are hitting so many of the areas of concern: it not only addresses the funding, but it also helps the management to focus on getting this railroad in a condition that it should be in.

One of these major reforms is for Amtrak to develop a new financial accounting system, which will provide more transparency into the company's financial management and better cost controls.

Most importantly, the LAUTENBERG-LOTT Amtrak bill focuses on improving service for passengers. I learned when I was in the private sector that if you provide a good product, people will buy it. We will require new standards for service quality—on-time performance, onboard and station services, cost recovery, connectivity, to name a few. The public is going to know what Amtrak is doing and would be kept apprised of their performance through quarterly reports from the Federal Railroad Administration.

Our bill also addresses the problem of train delays. On many routes outside the Northeast, freight trains delay Amtrak riders from reaching their destination on time. It is against the Federal law. As we know in the airline industry, delays frustrate passengers and hurt the company's bottom line. Our bill would authorize the Surface Transportation Board to issue fines to freight railroads that delay Amtrak trains. We all have to share the system and share it efficiently.

Some have suggested another provider could be more efficient than Amtrak. I doubt this claim, but our bill does authorize a program to allow a freight railroad to bid for Amtrak's subsidy on up to two long-distance or State-supported corridor routes. So we are saying, even if there is some skepticism on our part, the bill authorizes the States to go ahead and work with the freight railroad to bid for an Amtrak subsidy, on up to two long-distance or State-supported corridor routes.

I repeat that because it is very significant. We want the States to participate, and we want to open as much of a change in policy as can be done with practical output. This pilot program could allow freight railroads to maximize efficiencies because they own the tracks already. As many Northeast corridor States have called for more involvement in how that essential corridor is run, this bill will improve governance by giving Northeast States, such as New Jersey, a bigger voice in infrastructure and operations decisions.

The State will join a newly formed commission that will develop recommendations about the short- and long-term capital investments, among other things.

And speaking of governance, our bill restructures Amtrak's board of directors by ensuring a bipartisan nine-member board of qualified members. That gives an opportunity to bring more people into the management decision process, and we think it will be a much more efficient and involved board. One board member, nominated by President Bush, actually told me at his Senate confirmation hearing that he had never even been on an Amtrak train. Well, it does not suggest he is going to be working with knowledge in hand that is significant or helpful to the company.

Currently there is a seven-member board, no qualification requirements, and for years the Administration had taken the position that the board need not be bipartisan at all. Well, it was originally structured as a bipartisan board to give all sides to the principal parties to be able to be engaged in this process.

We worked hard to forge this bipartisan compromise plan. Last Congress, our plan, which was nearly identical to this one, was approved by the Senate as an amendment to the budget bill by a vote of 93 to 6. That tells us this is a well thought-out plan.

There are only slight changes to our bill from the last Congress, and we will have a managers' amendment to address other minor modifications. Our

Nation's passenger rail programs have not been reauthorized for a decade, and the result is chaos in our transportation system.

I urge my colleagues to vote for this Amtrak bill, to provide millions of Americans with more transportation choices. It is fair to say that the public has agreed with this change in droves. They are sick and tired of being delayed, paying more for fuel, and including a more polluted atmosphere at the same time. It is time to make this change.

AMENDMENT NO. 3451

Madam President, I send a managers' amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Ms. CANTWELL.) The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 3451.

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

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

The amendment is as follows:

(Purpose: To make minor changes in the bill as reported, to strike title IV, and for other purposes)

In the table of contents, strike the items relating to title IV.

On page 22, line 2, insert ''relevant'' after ''each''.

On page 22, line 4, insert ''single, Nationwide'' after ''implement a''.

On page 28, line 12, insert ''As part of its investigation, the Board has authority to review the accuracy of the train performance data.'' after ''operator.''.

On page 29, line 15, insert ''order the host rail carrier to'' after ''appropriate,''.

On page 29, between lines 23 and 24, insert the following:

(b) FEES.—The Surface Transportation Board may establish and collect filing fees from any entity that files a complaint under section 24308(f)(1) of title 49, United States Code, or otherwise requests or requires the Board's services pursuant to this Act. The Board shall establish such fees at levels that will fully or partially, as the Board determines to be appropriate, offset the costs of adjudicating complaints under that section and other requests or requirements for Board action under this Act. The Board may waive any fee established under this subsection for any governmental entity as determined appropriate by the Board.

(c) AUTHORIZATION OF ADDITIONAL STAFF.—The Surface Transportation Board may increase the number of Board employees by up to 15 for the 5 fiscal year period beginning with fiscal year 2008 to carry out its responsibilities under section 24308 of title 49, United States Code, and this Act.

On page 29, line 24, strike ''(b)'' and insert ''(d)''.

On page 51, between lines 4 and 5, insert the following:

(d) ACELA SERVICE STUDY.—

(1) IN GENERAL.—Amtrak shall conduct a conduct a study to determine the infrastructure and equipment improvements necessary to provide regular Acela service—

(A) between Washington, D.C. and New York City in 2 hours and 30 minutes; and

(B) between New York City and Boston in 3 hours and 15 minutes.

(2) ISSUES.—The study conducted under paragraph (1) shall include—

(A) an estimated time frame for achieving the trip time described in paragraph (1);

(B) an analysis of any significant obstacles that would hinder such an achievement; and

(C) a detailed description and cost estimate of the specific infrastructure and equipment improvements necessary for such an achievement.

(3) SECONDARY STUDY.—Amtrak shall provide an initial assessment of the infrastructure and equipment improvements, including an order of magnitude cost estimate of such improvements, that would be necessary to provide regular Acela service—

(A) between Washington, D.C. and New York City in 2 hours and 15 minutes; and

(B) between New York City and Boston in 3 hours.

(4) REPORT.—Not later than February 1, 2008, Amtrak shall submit a written report containing the results of the studies required under this subsection to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Transportation and Infrastructure of the House of Representatives;

(D) the Committee on Appropriations of the House of Representatives; and

(E) the Federal Railroad Administration.

On page 57, strike lines 3 through 11.

On page 57, line 12, strike ''(d)'' and insert ''(c)''.

On page 73, line 1, insert ''2003,'' after ''years''.

On page 81, line 25, strike ''and''.

On page 82, line 2, strike ''seq.).'' and insert ''seq.); and''.

On page 82, between lines 2 and 3, insert the following:

''(3) the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

On page 144, beginning with line 2, strike through the end of the bill.

Mr. LAUTENBERG. Madam President, this amendment will strike the title on security which has already become law this year. It adds a study on trip time in the Northeast corridor, and makes several technical corrections.

I yield the floor to my distinguished friend and colleague, Senator LOTT.

Mr. LOTT. Let me say with regard to the package that was agreed to, the changes, we did work together on that. It was cleared on both sides. I want to thank the leaders for allowing us to move forward on this legislation. It is never easy to go straight to a bill these days. There are Senators who have reservations about going to this particular bill at this time. Some Senators wanted to make sure they were going to have an opportunity to look at the legislation and prepare thoughtful amendments, amendments that might, frankly, improve the legislation, add additional reforms, delete parts of it.

That is all well and good. I understand that maybe some Senators were not aware we were going to try to go to Amtrak today, even though I know an effort was made to try to inform both sides that would be the intent after we dealt with the Labor-HHS appropriations bill, the Southwick nomination, and the DREAM Act. Maybe it moved a little quicker than people thought because of some of the earlier actions today.

I want to emphasize this too. While I have been involved in working on this legislation for some 3 years with Senator LAUTENBERG as chairman of this subcommittee and now as ranking member, and I think there are some good things in here worth having, maybe we can even strengthen it more. That would be positive for the future of Amtrak. I am perfectly willing and anxious to see if there are good ideas of how we can make it even a stronger bill. I want Amtrak to succeed. If we are going to keep it, let's fix it where it will work. I do not think it is wise to continue putting money into a system that is not enough, and then complain because it is not doing the job. We are slowly starving it, using it more, and complaining that it is not doing better. I think we need some reforms. I think we need to have authorization. I think we need to expect more of the Amtrak board. We need to expect good service from Amtrak. I think we ought to provide an opportunity for them to have a way to get the funds to do the job. That is what we are trying to do here.

As I said earlier today, this is not something people in my State are going to feel an immediate impact from. We do have Amtrak service that runs through my State, north and south, from New Orleans to Chicago. We have even had it down along the coast. Probably some people would say: Well, it is not worth it.

I believe we need Amtrak. I believe we need a national passenger rail system. It is a part of the package. I support improving aviation and a modernization of the aircraft control system. I want us to have safety in the airways. I want us to have less congestion. I want us to do what we need to do to modernize the system. I want good passenger airline service. I also want to continue to work to improve highways in this country. But I do not believe that lanes and planes will always be enough. There is a limit to what you can do in the air and on the ground with highways. I think we need passenger rail service also.

This is not something, again, that is going to be critical in my State. But I think it is important for our country. My State will benefit, too, when the rest of the country benefits.

I also think if we are going to have this system, it ought to not be just the Northeast corridor. I think we should continue to work to try to find ways to make other routes profitable, on time, provide good service. That is what we are trying to do here.

Some of my friends look at me and say: Well, why are you trying to do this? This is costing money. It is too overly subsidized. They have union problems, this, that and the other. I admit it has problems. I think we are part of the problem, because we are not engaged in trying to improve the law, give them more power to do what they need to do to make the tough decisions, get outside advice, try to figure

out how to do a better job. That is what we do here.

So this is an area I have worked on for most of my career in Congress, transportation and infrastructure. I believe they are critical to the future of our country. It is about jobs. It is about economic development. It is about opportunity. It is about movement. It is about America.

That is why I have been involved for some time, to the consternation of some of my friends. We have worked on this before. I worked on the last Amtrak reform legislation. I had higher hopes from that legislation than the results we got. But I think we have made some progress. And when you do legislation that does not achieve all you want it to do, my attitude is, come back and try again.

But to show you the amount of support we have, when we brought this up on the reconciliation package in 2005, it got 93 votes. Some people said: Well, it is not enough, or, we can do better. But when they voted, 93 Senators voted for it. That is part of the process.

This time, hopefully, we can get it through here freestanding, get the House to act, let us get to conference, let's bring in the administration. If the administration has recommendations or concerns, great, let us hear them.

My problem with the administration is, they have tried to ignore it. So let's try to get them involved. I am not going to be partisan about this. I do not want to blast Amtrak, I don't want to blast the board or the administration. I want us all to get together. That is part of the effort of what we are trying to do here.

This legislation, S. 294, makes a number of important reforms in Amtrak. It has three major themes: Amtrak reform and accountability; cost cutting; and creating funding options for States.

Now, whether are you from Illinois, California, or Missouri, or whether you are from New Jersey, you ought to like this. And if you are a conservative Republican, did you hear what I said? Cost cutting, reform, and accountability. This is made in heaven.

I think we should get this done, and work in good faith with each other. I think we need to increase the executive branch oversight and involvement in Amtrak. The bill ensures that taxpayer money is used more effectively and it builds on the improvements that have been made in recent years. I think you have to give credit to the fact that David Gunn, when he was the president of Amtrak, made some improvements in his management. He did a good job. He finally wound up leaving because he had other opportunities, and maybe some people were critical of him. But I have to say I think he did a great job, and he moved it in the right direction.

The bill requires Amtrak to develop better financial systems and to evaluate its operations objectively. It forces Amtrak to improve the efficiency of long-distance train service. There are some lines that are losing way too much money. I think the Amtrak officials should look at it and try to make those lines more profitable, put some guidelines on them, put some pressure on them, and if they do not meet them, cut them off. I cannot defend a line that is losing money and is costing $400 a head subsidy for a passenger.

So the bill reduces Amtrak's operating subsidy by 40 percent by 2012 by requiring Amtrak to use its funds more effectively.

But it does not just say ''do it,'' it provides a number of things that will lead to making that possible. The bill promotes a greater role for the private sector by allowing private companies to bid on operating Amtrak lines.

The bill also creates a new rail capital grant program that States can use to start new inner city passenger rail service. There has been a real increase, and that is where we had a lot of boardings, a lot of passengers. They are using that service where that opportunity has existed. This would be the first time that States will have a Federal program they can use for passenger rail, putting inner city passenger rail on similar footing with highway transit and airports, all of which have Federal assistance programs for infrastructure.

Some people complain about the money in Amtrak, and yet if you look at what we have in these other areas, highways and transit and airports, Amtrak is terribly shortchanged. We provide all of this infrastructure in these other areas, and then we are not prepared to do that with the passenger rail system.

States will not have to rely only on Amtrak for their inner city passenger rail service. It gives them more opportunity, more for themselves, and to have a Federal program work with them to achieve that.

Now, while discussing reform, we should not forget there is good news here. Some people will only say: Well, it is still losing money. In fiscal year 2007, there was a record number of 25.8 million passengers who traveled on Amtrak. People are using it and using it more. It is the chicken-and-egg deal. Once you get better equipment, on-time service, better food, going to places people want to go, they will ride. In the past they haven't done it because maybe the equipment was old or they got delayed. As they have provided better service, more people started riding. The boarding ticket revenues increased 11 percent to $1.5 billion in fiscal year 2007. Of course, the Acela Express, I guess the old standard of what Amtrak should do, can do—and we use it here in this corridor—had a 20-percent increase in ridership and achieved an on-time performance of 87.8 percent, proving it can be done. Passenger service can be on time. The Acela is so popular that another round-trip between New York and Washington was created in July.

We should not focus solely on the Northeast corridor though. I want to make sure we have some service in the South and the Midwest and the West and in the Northwest. The Capital Corridor operating in California between Auburn and San Jose increased ridership by 15 percent and has an ontime performance of 75 percent. Most notably, the Lincoln service connecting Chicago to St. Louis is up 42 percent. Chicago to St. Louis, that is a tremendous increase. It is a direct result of the State more than doubling its contract with Amtrak. Across the country, States are interested in passenger service, and passengers are responding in record numbers to the better service.

S. 294 is the best mechanism to reform Amtrak. I encourage my colleagues to support this bill. Read it. It is not a long, complicated bill. But if you have a better idea, come on out here. Let's hear it. Tomorrow we will be ready for business. We will have some amendments. The way I like to do business, with the cooperation of our chairman, if you have an amendment, let's have you offer it. Let's talk about it, and let's vote. Let's don't be setting them aside and piling them up for later on in the day. Let's do business. I think that is one way you get Senators to actually be here and doing work, actually have some votes. I don't want to go on too long.

Let me just run down some of the areas where we have concentrated in this bill. It does provide for management improvement. The bill requires a financial accounting system for Amtrak operations and a 5-year financial plan. Why in the world wouldn't they have that? I don't know. Families have plans for their budgets and what they are going to do in the future. Amtrak ought to do that.

It deals with debt. The bill directs the Secretary of the Treasury, in consultation with the Secretary of Transportation and Amtrak, to negotiate the restructuring of Amtrak's debt within 1 year. This is something Senator LAUTENBERG has talked about. They can actually save money. Why would they not do that? So we would direct that in the bill.

It does improve corporate governance. It adds the Amtrak president to the Amtrak board, bringing the total number of members of the board to nine. Think about that, the Amtrak president was not on the board. That doesn't make any sense.

It calls for metrics and standards. In consultation with the Surface Transportation Board and the operating freight railroads, the Federal Railroad Administration and Amtrak shall jointly develop metrics and standards for measuring the performance and service quality of intercity train operations. They should include cost recovery, ontime performance, ridership per train mile, onboard and station services, the whole package.

It does improve the route methodology. It would provide access to Amtrak equipment and services.

States wishing to use operators other than Amtrak would be able to do so

under this legislation. It would improve the Northeast corridor. It would work to improve the long distance routes.

I think we have touched on the very important areas, but the one I think that is going to make the greatest difference is the State Capital Grant Program for intercity passenger rail. When I have talked to Governors and transportation officials, railroad people, they say this is what we need. This could really make a difference. I see the Presiding Officer nodding her head. I suspect her State is one that would have an interest up there in the northwest corner of Washington and Oregon.

So there are significant reforms. This is a good effort. This is the kind of work we ought to do more of in the Senate. We have managed for the last few years to find what we could disagree about, something we could fight about. We haven't taken the time to take up issues that affect real people's lives that we can agree on, that are bipartisan. I appreciate the leader putting this in the agenda. He did it at the request of a number of Senators who care about this. Senator CARPER obviously is one of them, Senator LAUTENBERG, myself, and others. We have been pleading with them. I pleaded with the previous majority leader. Let's get this bill up.

Some people say there are other things more important we could be doing. Why aren't you doing something about health care, more appropriations bills? That is a good question. All I know is, this is an issue that matters. We don't know when we are going to have another incident in America with aviation, or somewhere else, when we need trains. We need good service. I am also working in the Finance Committee to see if we can't get a tax credit so that we can continue to improve the capacity of our freight rail and allow them to build off ramps so the freight trains can get out of the way so Amtrak can run without losing time and money. We are looking at that side of the equation too. I know some of our friends in the freight rail industry are not all that excited about this legislation because we want Amtrak to be on time and to get by the slower moving freight trains. Sometimes that costs them money, and it is an inconvenience for them. After all, Amtrak is running on their tracks. But we will work with the freight lines and make sure their points of view are considered in the process.

I won't go on any longer. I would like for us to get to some amendments that may be available on Amtrak. I know Senator SUNUNU has some. We will continue tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, once again, it is obvious to all that Senator LOTT understands what we have to do to get things done around here, and that it can't be all one way because each of us does represent a different State. We are brought here to bring in the opinions of the people whom we serve, our constituents, so we do get a mix of views. Sometimes I wish we didn't, but for the most part that is life in the real world.

The thing we sometimes fail to see is, when we do something for the infrastructure, when we do something for rail service, it is in the national interest, even though there are currently many more riders in the very densely populated Northeast corridor. The fact is, as I related before, other places around the country are examining rail service as an alternative to their own congestion and pollution problems. When we look at something called essential air service, it is essential. That is why it is done. The Government does subsidize its existence because communities need that. So it is with rail service.

Interestingly enough, only four States have no contact with Amtrak. One of them is Hawaii, which involves a very long train ride. The other is Alaska. We have heard Senator STEVENS talk about having a railroad that goes to Alaska. But otherwise we have 46 States that have contact with Amtrak. Some of them are more active than others. But as was said by our colleague, Senator LOTT, some of these States don't have the traffic or they are not en route enough. The mission is to get as many States involved with Amtrak, with rail service as we can, national rail passenger service.

We look at ways of improving the management of Amtrak, that which we would with any business. I spent much of my life in business before I came to the Senate. Businesses run differently than government. But there are some principles that are the same; for instance, investments in product. If you don't put the money in, you don't get the money out. What we found here is, since the creation of Amtrak, which goes back to 1971—1971 was the creation of the Amtrak quasi-government corporation. It had been in private hands under different names for many years and never succeeded. Why? The thing that is obvious; that is, with rail passenger rail service, there is going to always be some assistance required from government, just as there is for the aviation system and the highway system. As a matter of fact, we spend more on highways in a year than we have spent on Amtrak since its creation, never having quite put in enough resources to bring the infrastructure up to the level it should be related to the period of time we are talking about.

In Germany, there was a program to establish a rail system that cost about $70 billion in a 10-year period. China now is establishing a passenger rail service which could cost up to $200 billion. And here we are in the most powerful nation in the world playing catch-up. We are not talking about insignificant sums of money, but we are talking about substantial opportunities for us to improve what we are doing with this bill that will run almost $2 billion a year for 6 years, plus some additional funding in another bill raised by bonding authority. Senator LOTT has been very helpful in the Finance Committee to get this system up to where it ought to be. Whenever we look for opportunities to improve life in America, certainly this looms high on the horizon.

We have made it clear that we are ready to accept amendments. We would like them brought to the floor this evening or tomorrow. But we will not be able to stay here and not see any response, if there isn't enough interest by fellow Members to come down and bring us their amendments.

I ask unanimous consent that the previously agreed to committee amendments be considered as original text for the purpose of further amendments; that the pending managers' amendment be considered and agreed to and considered as original text for the purpose of further amendments; that the bill, as amended, be considered as original text for the purpose of further amendments; that no points of order be considered waived by virtue of this agreement.

As Senator LOTT well knows, this is kind of professional language for the institution.

Mr. LOTT. Madam President, I will not object. I just want to say, we have worked through this, and it is cleared on our side. We have no objection.

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

The amendment (No. 3451) was agreed to.

Mr. LOTT. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SUNUNU. Madam President, we are moving on into the early hours of the evening, and I appreciate the work that the bill managers, Senator LAUTENBERG and Senator LOTT, have done on this legislation.

I am a member of the Commerce Committee as well, and there is no question that there was strong support for this legislation when we voted on it last year. As Senator LAUTENBERG indicated, it was a 93-to-6 vote. I am sorry to say, at least from his perspective, I was one of the six who voted ''no.''

Despite the work that has gone into this legislation, I do think it has some real weaknesses. Both Senators LOTT and LAUTENBERG touched on some of those weaknesses in their opening remarks—that at times Amtrak has not delivered the kind of quality service we would expect; at times they have not delivered, year after year, the kind of financial results we would hope for and

expect as taxpayers who are providing the subsidies and the support for Amtrak.

Since its creation well over 25 years ago, the Federal subsidies have amounted to over $20 billion. Amtrak was originally created with the intention of becoming self-sufficient. There was an Amtrak reform bill passed in 1997, recommitting to this goal, and yet it still has not happened.

As a taxpayer and as a Senator, it causes me great concern we have not done better—better both in terms of performance on the service and the quality side—but also on the financial side.

There was discussion of the Northeast Corridor. The Northeast Corridor does provide for a great opportunity to serve millions of people running from my State of New Hampshire all the way down to Washington, DC, and beyond—some of the more densely populated areas where it makes the most sense to have a train service. But even in the Northeast Corridor, the operation is not what we would want.

I think it is fair to expect more; not just in the financial oversight that is in the legislation, not just in some of the new programs that are in the legislation, but, for example, in the long-distance train service. For the long-distance train routes—I think there are 15 or 16 now—they lose $200 per passenger. That is not acceptable.

I have a couple amendments I will be offering. One deals with that huge per-passenger subsidy, to say if we are losing $200 per passenger—every single passenger: a $200 subsidy—on some of those long-distance routes, we should not continue to operate that route.

There are some proposals for allowing route competition. I think that is also a good idea, but one we can build on and expand on, allowing more and different routes to be offered on a competitive basis.

So I think there are ways to improve the bill that we need to take a look at, and that I hope are at least part of the debate.

I do not necessarily expect to win on all of those amendments, but I think it is important we be realistic about some of the weaknesses that are in the system.

I also want to address an issue that was spoken about early this evening by Senator ALEXANDER. He discussed at some length the Internet tax moratorium and what that would mean to American consumers.

Right now, we have a ban on Internet access taxes. You cannot levy an access tax on the Internet for consumers, or for businesses, for that matter. Everyone talks about the importance of broadband to our economy. Without question, the Internet is important to our economy, not just because it gives us information or brings data into our homes, but because it represents a national—in effect, a global—network for communication and for commerce.

That is something that is the responsibility of Congress to protect—to protect from onerous regulation, to protect from taxes that would discourage long-term investment that would raise costs for consumers or businesses.

We have had that ban on Internet taxes in place, and I think it is important we make that tax ban permanent. Unfortunately, after introducing legislation at the beginning of this year, we have not had a single vote on this issue. We have not voted on it in the Commerce Committee or any subcommittee. They have not voted on it in the Finance Committee. We have not had a vote on it on this floor.

Many of us have been trying very hard to get a vote to make this Internet tax moratorium permanent. The moratorium expires on Halloween, of all days. On that day, because the ban will no longer be in effect, States, cities, towns, and counties would be in the position to levy new taxes on Internet access. That is not right. It is not good for consumers. It is not good for the economy. It is not good for the communication system, the data system, and the commerce system we have come to count on with the Internet.

A number of Senators—Senator WYDEN; Senator MCCAIN; Senator MCCONNELL; Senator LOTT and numerous House Members, such as ANNA ESHOO from California—have worked very hard on making this ban permanent. For those who have listened to this debate from around the country, I am sure they wonder why it is we cannot do anything in a consistent way. We have research and development tax credits that lasts only for a year. We have a death tax that is repealed in 2011 and comes back from the dead in 2012. And we have a ban on Internet access taxes that only lasts 4 years. It ought to be made permanent for the sake of consistency.

While I do not want to cause any unnecessary delay in underlying legislation, I think that addressing the Internet tax moratorium is something that is important.

AMENDMENT NO. 3452

For that reason, Madam President, I send an amendment to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SUNUNU] proposes an amendment numbered 3452.

Mr. SUNUNU. Madam 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 amend the Internet Tax Freedom Act to make permanent the moratorium on certain taxes relating to the Internet and to electronic commerce)

At the end of the bill, add the following:

SECTION _____1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Freedom Act Amendments Act of 2007''.

SEC. _____2. PERMANENT BAN OF INTERNET ACCESS TAXES.

(a) IN GENERAL.—Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking ''during the period'' through ''2007''.

(b) GRAND FATHERING OF STATES THAT TAX INTERNET ACCESS.—Section 1104(a)(2) of such Act is amended to read as follows:

''(2) STATE TELECOMMUNICATIONS SERVICE TAX.—

''(A) DATE FOR TERMINATION.—This subsection shall not apply after November 1, 2006, with respect to a State telecommunications service tax described in subparagraph (B).

''(B) DESCRIPTION OF TAX.—A State telecommunications service tax referred to in subparagraph (A) is a State tax—

''(i) enacted by State law on or after October 1, 1991, and imposing a tax on telecommunications service; and

''(ii) applied to Internet access through administrative code or regulation issued on or after December 1, 2002.''.

SEC. _____3. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

Section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

''(c) APPLICATION OF DEFINITION.—

''(1) IN GENERAL.—Effective as of November 1, 2003—

''(A) for purposes of subsection (a), the term 'Internet access' shall have the meaning given such term by section 1104(5) of this Act, as enacted on October 21, 1998; and

''(B) for purposes of subsection (b), the term 'Internet access' shall have the meaning given such term by section 1104(5) of this Act as enacted on October 21, 1998, and amended by section 2(c) of the Internet Tax Nondiscrimination Act (Public Law 108–435).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply until November 1, 2007, to a tax on Internet access that is—

''(A) generally imposed and actually enforced on telecommunications service purchased, used, or sold by a provider of Internet access, but only if the appropriate administrative agency of a State or political subdivision thereof issued a public ruling prior to July 1, 2007, that applied such tax to such service in a manner that is inconsistent with paragraph (1); or

''(B) the subject of litigation instituted in a judicial court of competent jurisdiction prior to July 1, 2007, in which a State or political subdivision is seeking to enforce, in a manner that is inconsistent with paragraph (1), such tax on telecommunications service purchased, used, or sold by a provider of Internet access.

''(3) NO INFERENCE.—No inference of legislative construction shall be drawn from this subsection or the amendments to section 1105(5) made by the Internet Tax Freedom Act Amendments Act of 2007 for any period prior to November 1, 2007, with respect to any tax subject to the exceptions described in subparagraphs (A) and (B) of paragraph (2).''.

SEC. _____4. DEFINITIONS.

Section 1105 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) in paragraph (1) by striking ''services'',

(2) by amending paragraph (5) to read as follows:

''(5) INTERNET ACCESS.—The term 'Internet access'—

''(A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

''(B) includes the purchase, use or sale of telecommunications by a provider of a service described in subparagraph (A) to the extent such telecommunications are purchased, used or sold—

''(i) to provide such service; or

''(ii) to otherwise enable users to access content, information or other services offered over the Internet;

''(C) includes services that are incidental to the provision of the service described in subparagraph (A) when furnished to users as part of such service, such as a home page, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity; and

''(D) does not include voice, audio or video programming, or other products and services (except services described in subparagraph (A), (B), or (C)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated with the charge for services described in subparagraph (A), (B), or (C).'',

(3) by amending paragraph (9) to read as follows:

''(9) TELECOMMUNICATIONS.—The term 'telecommunications' means 'telecommunications' as such term is defined in section 3(43) of the Communications Act of 1934 (47 U.S.C. 153(43)) and 'telecommunications service' as such term is defined in section 3(46) of such Act (47 U.S.C. 153(46)), and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986 (26 U.S.C. 4251)).'', and

(4) in paragraph (10) by adding at the end the following:

''(C) SPECIFIC EXCEPTION.—

''(i) SPECIFIED TAXES.—Effective November 1, 2007, the term 'tax on Internet access' also does not include a State tax expressly levied on commercial activity, modified gross receipts, taxable margin, or gross income of the business, by a State law specifically using one of the foregoing terms, that—

''(I) was enacted after June 20, 2005, and before November 1, 2007 (or, in the case of a State business and occupation tax, was enacted after January 1, 1932, and before January 1, 1936);

''(II) replaced, in whole or in part, a modified value-added tax or a tax levied upon or measured by net income, capital stock, or net worth (or, is a State business and occupation tax that was enacted after January 1, 1932 and before January 1, 1936);

''(III) is imposed on a broad range of business activity; and

''(IV) is not discriminatory in its application to providers of communication services, Internet access, or telecommunications.

''(ii) MODIFICATIONS.—Nothing in this subparagraph shall be construed as a limitation on a State's ability to make modifications to a tax covered by clause (i) of this subparagraph after November 1, 2007, as long as the modifications do not substantially narrow the range of business activities on which the tax is imposed or otherwise disqualify the tax under clause (i).

''(iii) NO INFERENCE.—No inference of legislative construction shall be drawn from this subparagraph regarding the application of subparagraph (A) or (B) to any tax described in clause (i) for periods prior to November 1, 2007.''.

SEC. _____5. CONFORMING AMENDMENTS.

(a) ACCOUNTING RULE.—Section 1106 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by striking ''telecommunications services'' each place it appears and inserting ''telecommunications'', and

(2) in subsection (b)(2)—

(A) in the heading by striking ''SERVICES'',

(B) by striking ''such services'' and inserting ''such telecommunications'', and

(C) by inserting before the period at the end the following: ''or to otherwise enable users to access content, information or other services offered over the Internet''.

(b) VOICE SERVICES.—The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking section 1108.

SEC. _____6. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on November 1, 2007, and shall apply with respect to taxes in effect as of such date or thereafter enacted, except as provided in section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note).

Mr. SUNUNU. Madam President, this legislation would simply take what has already been done in the House—which is to pass a 4-year extension—and to make it permanent. A lot of good work was done in the House to strengthen the current moratorium and ban on Internet access taxes. Unfortunately, despite the fact there were over 240 Democrats and Republicans who supported this legislation, it did not receive an up-or-down vote to make the ban on Internet taxes permanent.

So what we do is take the House language in this amendment and make it permanent. It provides clarification with regard to services and technologies that are dealt with and not dealt with. If you are an Internet business, you still pay property taxes and payroll taxes. You pay business income taxes. But the Government should not be allowed to levy a tax on access to the Internet for the consumers themselves.

There are certain States that are affected by grandfather clauses that were included in the House language. We maintain that language. All we do is fully extend it permanently so that if you are a consumer you know the Internet will not be taxed. If you are a small business, you know your cost of Internet access will not go up. If you are doing business over the Internet, you know there will continue to be investments in the infrastructure necessary to increase broadband deployment.

I think at the very least we should have an opportunity to vote on making this Internet tax moratorium permanent. I think it is a commonsense approach. We can always come back and look at the technical issues associated with the language if it needs to be modified in 5 years or 10 years or 15 years. That is what Congress does. But we should say, once and for all, we are not going to tax Internet access at the Federal level, at the State level, at the local level.

Madam President, I thank you for the consideration and yield the floor.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. MCCONNELL. Madam President, I thank the Senator from New Hampshire for offering this important amendment. We are running out of time. The Internet tax moratorium does expire in a week. As the Senator from New Hampshire has indicated, State and local governments across our country could impose taxes on Internet access as soon as a week from now.

I think it is important we address this issue—not that the underlying measure is not important as well. I know it is important to many Senators. But the Internet needs to be protected. Here is our chance to go on record: Are we for a tax on Internet access or not?

The Internet has been at the heart of America's economic growth over the past decade—all because Government has not gotten in the way. Those days are over if we open the Internet to new taxes. I think there is bipartisan support for a permanent ban, for continuing the moratorium forever, and I think the Senate ought to have an opportunity to go on record.

CLOTURE MOTION

The only way, Madam President, in the parliamentary situation we find ourselves in, that a vote on a permanent moratorium could be achieved is if I were to offer a motion to invoke cloture, which I send to the desk now, on the Sununu amendment.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment No. 3452 to make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent.

Mitch McConnell, John E. Sununu, John Ensign, Ted Stevens, Kay Bailey Hutchison, John Barrasso, R.F. Bennett, Larry Craig, Lindsey Graham, Wayne Allard, Trent Lott, Jim Bunning, Jim DeMint, Mel Martinez, Richard Burr, David Vitter.

Mr. MCCONNELL. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Madam President, I thank the Republican leader for his remarks and for the support he has provided to us. He is not a member of the Commerce Committee. He has a lot of other duties in the Senate, but he has taken a great interest in this issue, as I think most any legislator would, because the Internet is something we all understand, we deal with, we work with at one level or another. Our families, our friends, our neighbors, and businesses we may have worked for before, depend on it in different ways.

Everyone understands when you tax something, you raise its cost; when you tax something, you end up getting less of it—especially in the long run.

Some people stood up and said: Well, there are some States that have some taxes on the Internet, but there has still been broadband deployment in their State. That may well be, but you

cannot argue with the economic fact that when you tax something, you raise its cost; and when you raise its cost, you create a barrier to investment. Those are economic facts of life we cannot change, and those are the economic factors that make implementing a permanent ban on Internet taxes so important.

Opponents of making this ban permanent have also suggested it is an unfunded mandate to tell States they cannot tax the Internet, that it is an unfunded mandate because if we allow them to tax, they could raise money, but because we are telling them they cannot tax Internet access, they cannot raise that money, so there is a cost.

I think that is classic Washington-speak, a classic inside-the-beltway mentality, that if we prevent a State from imposing taxes, we have to compensate the State for that. That is plain wrong. If that were true, then we should be compensating every State in the Union because we do not allow them to arbitrarily impose taxes, fees, and tolls on every mile of interstate highway in the country, or because we do not allow every State in the Union to impose unique taxes on any flight or aviation that comes into or leaves their State. We do not allow that because we recognize our aviation system is a national system, because we recognize our interstate highway system is a national system. We do not allow States to tax exports for the same reason. And yet, we do not call those examples unfunded mandates. We do not compensate the States for these activities because the Federal Government has recognized these are important facets to interstate commerce that need to be dealt with in a systematic and uniform way at the Federal level. So I think it is an enormous mistake and very misleading to refer to this as an unfunded mandate.

The second objection that some have made is they recognize: Well, the technologies may change, so defining what is Internet access or data service or voice service—those definitions may have to be modified, as we have modified them over the last 6 or 8 years since the first ban on Internet access taxes was first put in place in 1998.

But if the fact that technology may change is a reason for not legislating or not making something permanent, we could use that as an excuse not to do anything ever or at least to do every bill on a 1- or 2-year basis. Especially in an area where we are dealing with investment and taxation, it is counterproductive at times to do such short-term legislation because those in the economy who are taking risks, making investments, creating jobs and economic opportunity for other people, will not be able to calculate and estimate what long-term returns and benefits might come from a given investment. They do not know what the tax rate will be or they do not know what the regulatory burden will be. As a result, you get fewer investments in that area. So we know that technology, services, and the approach to the Internet that businesses take may change in the future, but Congress can always and should always revisit laws, rules, or regulations, whether it has to do with Internet access or any other area.

So this is a piece of legislation whose time has come. I hope we can get expeditious consideration and approval because I think this is something that has been shown to have bipartisan support in both the House and the Senate.

At this time, I would like to turn my attention to another amendment I mentioned earlier in my remarks, and that has to do with the long-distance train routes. As I said, I think there are 14, 15, or 16 routes in operation now. None of these long-distance train routes make any money. They do not make any operating profit. They all lose money. They all lose money at different levels. Some of the long-distance routes, by GAO accounting estimates, lose as much as $200 per passenger. That means there is a Federal taxpayer subsidy, not of $1, or $10, or $20, or $40, but $200 for every passenger riding that route over the course of a year. That is a level of cost and subsidy which just can't be justified; especially at a time when we are trying to deal with difficult Federal priorities.

Today and throughout this week, there has been a lot of discussion about SCHIP, the State Children's Health Insurance Program, and the fact that SCHIP is an important program. I agree. I supported the legislation here in the Senate. Its goal is to provide coverage for lower income families who aren't covered by Medicaid, but may not be covered at their place of employment by a health care policy. As we are having a debate about providing that funding and targeting it to the most needy, whether it is health care or any other high-priority initiative, it is so hard to justify running trains across the country that have a subsidy of $200 for every passenger riding that train through the year.

So what I would propose is that we set a standard of $200. If your per-passenger subsidy through the course of a year is less than $200, we will allow the train to operate. Now, we hope it improves. We hope the reforms that were described at the beginning of the evening work—improve the management, reduce the costs, improve the efficiency, and improve the performance. But if they do not, and that subsidy level remains above $200 over the course of a year, that route should not remain in operation. Then, in subsequent years, we bring that threshold down, and the second year after this amendment would be in effect, the threshold would be $175. So if you have to subsidize passengers at $170 for every passenger who rides that train in a year, you can remain in operation, but if it is more than $175, that route would have to be closed. So on over the lifetime, until at the end of the authorization period for this bill we would have a cap of $100 subsidy per rider. I think that is still too high, but I certainly don't think it is too much to ask in an authorization bill of this type.

AMENDMENT NO. 3453

Mr. President, at this time I ask unanimous consent to set aside any pending amendment and send this amendment to the desk.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SUNUNU] proposes an amendment numbered 3453.

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

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

The amendment is as follows:

AMENDMENT NO. 3453

(Purpose: To prohibit Federal subsidies in excess of specified amounts on any Amtrak train route)

On page 32, before line 21, insert the following:

(c) LIMIT ON PASSENGER SUBSIDIES.—

(1) IN GENERAL.—The Secretary of Transportation shall prohibit any Federal funds to be used for the operation of an Amtrak train route that has a per passenger subsidy, as determined by the Inspector General under paragraph (2), of not less than—

(A) $200 during the first fiscal year beginning after the date of the enactment of this Act;

(B) $175 during the second fiscal year beginning after the date of the enactment of this Act;

(C) $150 during the third fiscal year beginning after the date of the enactment of this Act;

(D) $125 during the fourth fiscal year beginning after the date of the enactment of this Act; and

(E) $100 during any fiscal year beginning after the time period described in subparagraph (D).

(2) DETERMINATION OF SUBSIDY LEVEL.—The Inspector General of the Department of Transportation, using data provided by Amtrak, shall determine the difference between the average fully allocated operating cost per passenger and the average ticket price collected for each train route operated by Amtrak during the most recent 12-month period for which data is available.

(3) REPORT.—

(A) IN GENERAL.—Not later than 6 months before the end of each fiscal year, and every 6 months thereafter, the Inspector General shall publish a report that—

(i) lists the subsidy levels determined under paragraph (2); and

(ii) includes a statement that Amtrak will terminate any train route that has a per passenger subsidy in excess of the limits set forth in paragraph (1).

(B) DISTRIBUTION.—The Inspector General shall display the report published under subparagraph (A) on the Internet and submit a copy of such report to—

(i) the President of Amtrak;

(ii) the Secretary of Transportation;

(iii) the Committee on Commerce, Science, and Transportation of the Senate; and

(iv) the Committee on Transportation and Infrastructure of the House of Representatives.

Mr. SUNUNU. Mr. President, I thank you for the time. The amendment I

have just submitted is as I have described, and I hope this is an idea and an approach which can be incorporated into the legislation. I think it is common sense. I know a lot of Members of the Senate believe strongly that we should have long-distance trains, with long routes across the country. I would like to see those routes maintained and sustained as well, if it can be done in an economically reasonable way.

But the last years have shown that for some of these routes, the passenger levels are so low, the costs of operating are so high, they just can't compete. They can't compete with buses, they can't compete with automobiles, and they can't compete with airplanes in terms of cost and efficiency. So I think a step like this is long overdue. Again, I thank the bill managers, Senator LAUTENBERG and Senator LOTT, for their time and consideration and for allowing me to offer these amendments this evening.

I yield the floor.

Mr. LAUTENBERG. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. 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. BROWN. 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. BROWN. Mr. President, I ask unanimous consent to speak as in morning business.

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

2007 FARM BILL

Mr. BROWN. Mr. President, I appreciate seeing the Senator from Pennsylvania in the chair. We were both in the Agriculture Committee today. I thank him for his leadership for dairy farmers and for nutrition and feeding kids and all that he did that way.

The 2007 farm bill is a chance for Congress to make historic strides in agriculture, alternative energy, and to literally help improve the lives of millions of families across the country—families struggling from Harrisburg to Erie, from Ashtabula to Gallipolis, from Lima to Toledo.

In a State such as Ohio, with a long and rich agricultural history, this means a bright future for our agriculture industry, for our family farmers, and for our families.

I applaud the leadership of Senator HARKIN. I am proud, as Ohio's first Senator to sit on the Agriculture Committee in four decades, to be part of this process.

This bill could mean that low-income families will have more access to better nutrition by increasing Food Stamp Programs and access to affordable healthy foods. That means more fruits and vegetables into the schools in Hamilton, Middletown, and Akron, and more fruits and vegetables available, grown by local farmers, to go into farmers markets in Columbus and Zanesville and all over our State.

Earlier this year, as the occupant of the chair and I and others gathered in the committee, we heard from Rhonda Stewart of Hamilton, OH. Rhonda is perhaps in her early thirties and has, I believe, a 9-year-old son. She is a single mother, struggling and working full-time and making about $8, $9, or $10 an hour, with no health insurance. She was president of the local PTA and her son is involved in the Cub Scouts and she is a food stamp beneficiary. She struggled every month. At the beginning of the month, she told the committee back in February, she would serve her son pork chops that first week, which is his favorite meal. By the middle of the month, they went to McDonald's or another fast-food place maybe twice. But by the end of the month, as times got tough and she struggled financially, she would almost invariably sit at the dinner table, at the kitchen table with her son, he would be eating and she would not. He would say: What's wrong, Mom? Aren't you hungry? She would say: No, I don't feel well. She simply ran out of money at the end of the month.

In the farm bill, we are helping people like her and her family who work hard and play by the rules and do everything in the workplace and in their homes that we ask them to do as citizen of their communities and our country. This bill could mean new investment and a new direction for farmers in Ohio.

The 2007 farm bill reflects the values of farmers across Ohio: forward-thinking, responsible, and working to protect our natural resources and our rural communities.

This bill will help family farmers in my State and in Pennsylvania and across the country by strengthening the farm safety net, one that will provide better protection for farmers against disasters, such as either low yield or low prices. Either one can be obviously devastating to farmers.

The Average Crop Revenue Program, which Senator DURBIN and I introduced a bill to create as part of the farm bill—amended by Chairman HARKIN into the farm bill—offers a much needed choice to farmers. It represents significant reform for farmers and huge savings—literally $3.5 billion—for taxpayers.

Farmers can stay in the current or old program that does little to protect against drops in revenue or, for the first time ever, farmers will be able to switch to a forward-looking policy that better protects against volatile crop prices, natural disasters, and rising production costs. If farmers are doing well and prices and yields are good, farmers would not get tax dollars. If times are bad—the yield is low or there are floods or tornadoes that cause major crop yield drops or if the price is low—then the farmer will get help. That is the way that agriculture should be. That is the way most farmers I find in northwest Ohio and all over my State want to do it too. I traveled throughout Ohio this Spring—to Chillicothe, where we did roundtables with fruit and vegetable farmers, and in Montgomery County, not too far from Troy, and Piqua, near Dayton. We talked to farmers there, and near Wooster, OH. We talked to dairy farmers. In Lake County we talked to specialty farmers, especially those who do landscaping and greenhouses. In northwest Ohio we talked to farmers who grow corn and soybeans.

I met with a corn farmer in Henry County who will be supplying corn to one of the first ethanol plants in Ohio. I met with a hog farmer in Montgomery County who uses wind turbines to provide on-farm energy.

This farm bill makes a commitment to move beyond antiquated energy sources and wean ourselves from Middle Eastern oil and prepare American agriculture to lead the world in renewable energy production.

With the right resources and the right incentives, farmers can help decrease our dependence on foreign oil and produce clean, sustainable, renewable energy.

In a State such as Ohio, with a talented labor force and a proud lead-the-nation manufacturing history, that doesn't just mean stronger farms and more prosperous farmers; it means a stronger economy.

Rural communities across the Nation will benefit from additional Federal assistance in the farm bill and small towns not far from where I grew up in Lexington, OH, places like Butler and Belleville, will benefit from funding for infrastructure and hospitals, while expanding access to broadband for all of my State, especially southeast Ohio, which doesn't have the access it needs.

This bill will also provide more than $4 billion in additional funding for conservation programs to help farmers protect our water quality, expand wildlife habitat, and preserve endangered farmland.

While I am pleased with the bill overall, it can be improved. The public is perfectly willing to help family farmers when they need it, but taxpayers will not support massive payments to farms that have substantial net incomes.

We should not be sending tax dollars to Florida real estate developers, to city farmers who live in New York, to NBA players, or to media personalities. Those are not the people who should benefit from the farm bill.

I regret that we have not funded the McGovern-Dole international feeding program. I hope as this legislation progresses, we will do so.

The agricultural industry in Ohio has experienced unprecedented change in recent years, but the values of Ohio farmers—hard work, stewardship of the

land, caring for their families—remains steadfast.

We, too, must be steadfast in our support for farmers, but we must also change how we go about providing that support.

I applaud the proposal put before us in the Agriculture Committee today. I hope we can even improve upon it in the weeks ahead.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. 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. LAUTENBERG. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. Amendment No. 3452 is pending.

AMENDMENT NO. 3454 TO AMENDMENT NO. 3452

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk on behalf of Senator CARPER, which is No. 3452.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for Mr. CARPER, proposes an amendment numbered 3454 to Amendment No. 3452.

Mr. LAUTENBERG. 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:

Strike all after the first word and insert the following:

1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Freedom Act Amendments Act of 2007''.

SEC. 2. MORATORIUM.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) in section 1101(a) by striking ''2007'' and inserting ''2011'', and

(2) in section 1104(a)(2)(A) by striking ''2007'' and inserting ''2011''.

SEC. 3. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

Section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

''(c) APPLICATION OF DEFINITION.—

''(1) IN GENERAL.—Effective as of November 1, 2003—

''(A) for purposes of subsection (a), the term 'Internet access' shall have the meaning given such term by section 1104(5) of this Act, as enacted on October 21, 1998; and

''(B) for purposes of subsection (b), the term 'Internet access' shall have the meaning given such term by section 1104(5) of this Act as enacted on October 21, 1998, and amended by section 2(c) of the Internet Tax Nondiscrimination Act (Public Law 108–435).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply until November 1, 2007, to a tax on Internet access that is—

''(A) generally imposed and actually enforced on telecommunications service purchased, used, or sold by a provider of Internet access, but only if the appropriate administrative agency of a State or political subdivision thereof issued a public ruling prior to July 1, 2007, that applied such tax to such service in a manner that is inconsistent with paragraph (1); or

''(B) the subject of litigation instituted in a judicial court of competent jurisdiction prior to July 1, 2007, in which a State or political subdivision is seeking to enforce, in a manner that is inconsistent with paragraph (1), such tax on telecommunications service purchased, used, or sold by a provider of Internet access.

''(3) NO INFERENCE.—No inference of legislative construction shall be drawn from this subsection or the amendments to section 1105(5) made by the Internet Tax Freedom Act Amendments Act of 2007 for any period prior to November 1, 2007, with respect to any tax subject to the exceptions described in subparagraphs (A) and (B) of paragraph (2).''.

SEC. 4. DEFINITIONS.

Section 1105 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) in paragraph (1) by striking ''services'',

(2) by amending paragraph (5) to read as follows:

''(5) INTERNET ACCESS.—The term 'Internet access'—

''(A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

''(B) includes the purchase, use or sale of telecommunications by a provider of a service described in subparagraph (A) to the extent such telecommunications are purchased, used or sold—

''(i) to provide such service; or

''(ii) to otherwise enable users to access content, information or other services offered over the Internet;

''(C) includes services that are incidental to the provision of the service described in subparagraph (A) when furnished to users as part of such service, such as a home page, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity; and

''(D) does not include voice, audio or video programming, or other products and services (except services described in subparagraph (A), (B), or (C)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated, with the charge for services described in subparagraph (A), (B), or (C).'',

(3) by amending paragraph (9) to read as follows:

''(9) TELECOMMUNICATIONS.—The term 'telecommunications' means 'telecommunications' as such term is defined in section 3(43) of the Communications Act of 1934 (47 U.S.C. 153(43)) and 'telecommunications service' as such term is defined in section 3(46) of such Act (47 U.S.C. 153(46)), and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986 (26 U.S.C. 4251)).'', and

(4) in paragraph (10) by adding at the end the following:

''(C) SPECIFIC EXCEPTION.—

''(i) SPECIFIED TAXES.—Effective November 1, 2007, the term 'tax on Internet access' also does not include a State tax expressly levied on commercial activity, modified gross receipts, taxable margin, or gross income of the business, by a State law specifically using one of the foregoing terms, that—

''(I) was enacted after June 20, 2005, and before November 1, 2007 (or, in the case of a State business and occupation tax, was enacted after January 1, 1932, and before January 1, 1936);

''(II) replaced, in whole or in part, a modified value-added tax or a tax levied upon or measured by net income, capital stock, or net worth (or, is a State business and occupation tax that was enacted after January 1, 1932 and before January 1, 1936);

''(III) is imposed on a broad range of business activity; and

''(IV) is not discriminatory in its application to providers of communication services, Internet access, or telecommunications.

''(ii) MODIFICATIONS.—Nothing in this subparagraph shall be construed as a limitation on a State's ability to make modifications to a tax covered by clause (i) of this subparagraph after November 1, 2007, as long as the modifications do not substantially narrow the range of business activities on which the tax is imposed or otherwise disqualify the tax under clause (i).

''(iii) NO INFERENCE.—No inference of legislative construction shall be drawn from this subparagraph regarding the application of subparagraph (A) or (B) to any tax described in clause (i) for periods prior to November 1. 2007.''.

SEC. 5. CONFORMING AMENDMENTS.

(a) ACCOUNTING RULE.—Section 1106 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by striking ''telecommunications services'' each place it appears and inserting ''telecommunications'', and (2) in subsection (b)(2)—

(A) in the heading by striking ''SERVICES'',

(B) by striking ''such services'' and inserting 'such telecommunications', and

(C) by inserting before the period at the end the following: ''or to otherwise enable users to access content, information or other services offered over the Internet''.

(b) VOICE SERVICES.—The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking section 1108.

SEC. 6. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on November 1, 2007, and shall apply with respect to taxes in effect as of such date or thereafter enacted, except as provided in section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. 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. LAUTENBERG. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 294 on Thursday, October 25, there be 2 hours of debate prior to a vote in relation to the SUNUNU amendment No. 3453, with the time equally divided and controlled between Senators LAUTENBERG and SUNUNU or their designees, with no amendment in order to the amendment prior to the vote; that upon the use or yielding back of time, the Senate proceed to vote in relation to the amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate now proceed to a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

INTERNET TAX MORATORIUM

Mr. ALEXANDER. Mr. President, the House voted recently 405 to 2 to extend the current Internet tax moratorium which expires at the end of this month. They voted to extend it for 4 more years. I believe the Senate should do the same thing and do it before the end of the month rather than enact a permanent moratorium, as some want to do, because permanent action is likely to invoke a far higher law—the law of unintended consequences.

We can't imagine the future impact of the World Wide Web, and a permanent moratorium could produce at least two unintended consequences: No. 1, a big unintended tax increase, or No. 2, a big unintended, unfunded Federal mandate.

Here is an example of how a permanent moratorium could produce an unintended new tax. At the time the original moratorium was enacted in 1998, Internet access meant dial-up. Today, Internet access also includes broadband. Fortunately, Congress updated the moratorium definition in 2004 so that access to broadband is exempt from taxation.

Or, here is an example of how an outdated moratorium could produce an unintended, unfunded Federal mandate on States, cities, and counties. States and local governments collect billions of dollars in sales tax on telephone services to pay for schools, roads, police, and hospital workers. Under the old definition of Internet access, telephone calls made over the Internet might have escaped such taxation. That might sound good to conservatives like me who favor lower taxes, but most members of my Republican Party were elected promising to end the practice of unfunded Federal mandates—that is, those of us in Washington telling Governors, mayors, and county commissioners what services to provide and how to pay for them. In fact, Republican candidates for Congress stood with Newt Gingrich on the Capitol steps in 1994 and said, as part of a Contract With America, ''No more unfunded mandates. If we break our promise, throw us out.'' In 1995, the new Republican Congress enacted a new Federal Unfunded Mandates Reform Act, banning unfunded mandates.

Make no mistake, Mr. President, the permanent extension that is proposed would be an unfunded Federal mandate because it would not allow the grandfathered States—and there are currently nine of them collecting this tax—the ability to continue to make their own decisions about what revenues to collect. It would freeze into place forever an Internet access definition that might not be wise for industry and that might not be wise for State and local governments.

That is why so many people support the idea of a 4-year moratorium on taxation of Internet access. It has the support of the National Governors Association, the National Association of Counties, The U.S. Conference of Mayors, the National League of Cities, the Multistate Tax Commission, and the AFL–CIO.

In addition to that, even though many in the industry would like to have a longer moratorium, the Don't Tax Our Web Coalition has written a letter to JOHN CONYERS, chairman of the House Judiciary Committee, saying that they prefer the permanent extension but that they believe the House-passed bill is a step forward and one they can support.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the letter from the Don't Tax Our Web Coalition and also a copy of the Congressional Budget Office cost estimate from September 9, 2003, which makes absolutely clear that such a law would be an unfunded Federal mandate under the terms of the 1995 Unfunded Federal Mandate Act.

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

DON'T TAX OUR WEB COALITION,
October 2, 2007.

Hon. JOHN CONYERS, JR.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR CHAIRMAN CONYERS: On behalf of the Don't Tax Our Web Coalition (''Coalition''), I am pleased to express the Coalition's support of your effort to extend the Internet tax moratorium. Your continued leadership on these and other important matters affecting our industry is critical to consumers, and to strengthening the economy and job creation.

H.R. 3678, if enacted, would provide a temporary, four-year extension of the moratorium that is set to expire on November 1. Your bill also contains important definitional and statutory changes that improve current law. H.R. 3678 will provide much needed clarity to the communications and internet industries. By helping keep Internet access affordable, the moratorium promotes ubiquitous broadband access.

As you know, the Coalition has long endorsed H.R. 743, the Permanent Internet Tax Freedom Act. While we prefer a permanent extension, we believe that H.R. 3678 is a step forward and thus a bill we can support.

We look forward to continuing to work with you on this most important issue.

Sincerely,

BRODERICK D. JOHNSON.

S. 150—Internet Tax Nondiscrimination Act

Summary: S. 150 would permanently extend a moratorium on certain state and local taxation of online services and electronic commerce, and after October 1, 2006, would eliminate an exception to that prohibition for certain states. Under current law, the moratorium is set to expire on November 1, 2003. CBO estimates that enacting S. 150 would have no impact on the federal budget, but beginning in 2007, it would impose significant annual costs on some state and local governments.

By extending and expanding the moratorium on certain types of state and local taxes, S. 150 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the mandate would cause state and local governments to lose revenue beginning in October 2006; those losses would exceed the threshold established in UMRA ($64 million in 2007, adjusted annually for inflation) by 2007. While there is some uncertainty about the number of states affected, CBO estimates that the direct costs to states and local governments would probably total between $80 million and $120 million annually, beginning in 2007. The bill contains no new private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: CBO estimates that enacting S. 150 would have no impact on the federal budget.

Intergovernmental mandates contained in the bill: The Internet Tax Freedom Act (ITFA) currently prohibits state and local governments from imposing taxes on Internet access until November 1, 2003. The ITFA, enacted as Public Law 105–277 on October 21, 1998, also contains an exception to this moratorium, sometimes referred to as the ''grandfather clause,'' which allows certain state and local governments to tax Internet access if such tax was generally imposed and actually enforced prior to October 1, 1998.

S. 150 would make the moratorium permanent and, after October 1, 2006, would eliminate the grandfather clause. The bill also would state that the term ''Internet access'' or ''Internet access services'' as defined in ITFA would not include telecommunications services except to the extent that such services are used to provide Internet access (known as ''aggregating'' or ''bundling'' of services). These extensions and expansions of the moratorium constitute intergovernmental mandates as defined in UMRA because they would prohibit states from collecting taxes that they otherwise could collect.

Estimated direct costs of mandates to state and local governments: CBO estimates that repealing the grandfather clause would result in revenue losses for as many as 10 states and for several local governments totaling between $80 million and $120 million annually, beginning in 2007. We also estimate that the change in the definition of Internet access could affect tax revenues for many states and local governments, but we cannot estimate the magnitude or the timing of any such additional impacts at this time.

UMRA includes in its definition of the direct costs of a mandate the amounts that state and local governments would be prohibited from raising in revenues to comply with the mandate. The direct costs of eliminating the grandfather clause would be the tax revenues that state and local governments are currently collecting but would be precluded from collecting under S. 150. States also could lose revenues that they currently collect on certain services, if those services are redefined as Internet access under the bill.

Over the next five years there will likely be changes in the technology and the market for Internet access. Such changes are likely to affect, at minimum, the price for access to the Internet as well as the demand for and the methods of such access. How these technological and market changes will ultimately affect state and local tax revenues is

unclear, but for the purposes of this estimate, CBO assumes that over the next five years, these effects will largely offset each other, keeping revenues from taxes on Internet access within the current range.

The grandfather clause

The primary budget impact of this bill would be the revenue losses starting in October 2006—resulting from eliminating the grandfather clause that currently allows some state and local governments to collect taxes on Internet access. While there is some uncertainty about the number of jurisdictions currently collecting such taxes—and the precise amount of those collections—CBO believes that as many as 10 states (Hawaii, New Hampshire, New Mexico, North Dakota, Ohio, South Dakota, Tennessee, Texas, Washington, Wisconsin) and several local jurisdictions in Colorado, Ohio, South Dakota, Texas, Washington, and Wisconsin are currently collecting such taxes and that these taxes total between $80 million and $120 million annually. This estimate is based on information from the states involved, from industry sources, and from the Department of Commerce. In arriving at this estimate, CBO took into account the fact that some companies are challenging the applicability of the tax to the service they provide and thus may not be collecting or remitting the taxes even though the states feel they are obligated to do so. Such potential liabilities are not included in the estimate.

It is possible that if the moratorium were allowed to expire as scheduled under current law, some state and local governments would enact new taxes or decide to apply existing taxes to Internet access during the next five years. It is also possible that some governments would repeal existing taxes or preclude their application to these services. Because such changes are difficult to predict, for the purposes of estimating the direct costs of the mandate, CBO considered only the revenues from taxes that are currently in place and actually being collected.

Definition of Internet access

Depending on how the language altering the definition of what telecommunications services are taxable is interpreted, that language also could result in substantial revenue losses for states and local governments. It is possible that states could lose revenue if services that are currently taxed are redefined as Internet ''access'' under the definition in S. 150. Revenues could also be lost if Internet access providers choose to bundle products and call the product Internet access. Such changes would reduce state and local revenues from telecommunications taxes and possibly revenues from content currently subject to sales and use taxes. However, CBO cannot estimate the magnitude of these losses.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On July 21, 2003, CBO transmitted a cost estimate for H.R. 49, the Internet Tax Nondiscrimination Act, as ordered reported by the House Committee on the Judiciary on July 16, 2003. Unlike H.R. 49, which would eliminate the grandfather clause upon passage, S. 150 would allow the grandfather clause to remain in effect until October 2006. Thus, while both bills contain an intergovernmental mandate with costs above the threshold, the enactment of S. 150 would not result in revenue losses to states until October 2006.

Estimate prepared by: Impact on State, Local, and Tribal Governments: Sarah Puro; Federal Costs: Melissa Zimmerman; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

HONORING OUR ARMED FORCES

STAFF SERGEANT JARRED SETH FONTENOT

Mr. SALAZAR. Mr. President, I rise today to honor the memory of SSG Jarred Seth Fontenot of the 2nd Battalion, 12th Infantry Regiment, 2nd Infantry Division, out of Fort Carson, CO. Sergeant Fontenot was killed last Thursday in an engagement with insurgents in Baghdad. He died of injuries from an explosion and small arms fire that rained down on his patrol. Sergeant Fontenot was 35 years old, a loving husband, and a father of four.

Jarred Fontenot grew up in a family steeped in military tradition. His grandfather, who helped raise Jarred after his parents died at an early age, served in the Army. His two great uncles attended West Point, later joining the Navy and Marines. One of his great uncles died in Korea, a place Jarred would later serve.

Jarred's family speaks of him as a man who loved his job and who embraced the virtues of military service. ''He loved being a soldier,'' his grandmother recalls, ''and he died doing what he loved.''

Sergeant Fontenot was on his second tour in Iraq, on a mission to help bring security and stability to a region torn by violence and tragedy. Every day, he and his unit put themselves in harm's way to give Iraqi citizens a chance at a society governed by the rule of law, free from the threats of sectarian strife, terrorism or autocratic rule. He served bravely and was highly decorated, earning the Overseas Service Ribbon, the Parachute Badge, and the Army Commendation Medal, an honor bestowed upon those who have distinguished themselves by their service and acts of heroism.

Between deployments, Jarred devoted himself to law enforcement in his hometown of Port Barre, LA. On his days off, he would volunteer his expertise and his time to help his fellow peace officers. Needless to say, he earned the respect and appreciation of those with whom he served.

Mr. President, how can we properly honor the deeds of a man such as Jarred Fontenot, so devoted to his country, his family, and to those with whom he served? No words can match the magnitude of his virtue.

Pericles, the great Athenian general, suggested that we honor the sacrifices of soldiers like Jarred Fontenot by reflecting not only on his life and loss, but also on the rewards that he and other soldiers have delivered to the nation for which they fought.

At a funeral oration to honor soldiers who had died in one of the first battles of the Peloponnesian War, Pericles told the crowd that:

> Any one can discourse to you for ever about the advantages of a brave defense, which you know already. But instead of listening to him I would have you day by day fix your eyes upon the greatness of Athens, until you become filled with the love of her; and when you are impressed by the spectacle of her glory, reflect that this empire has been acquired by men who knew their duty and had the courage to do it, who in the hour of conflict had the fear of dishonor always present to them, and who, if ever they failed in an enterprise, would not allow their virtues to be lost to their country, but freely gave their lives to her as the fairest offering which they could present at her feast.

In this Chamber, the greatest deliberative body in the world, I ask that we honor Sergeant Fontenot by fixing our eyes on those freedoms which, for more than two centuries, have endured and prospered in this Chamber and across America. Our freedom of speech, our freedom of assembly, our freedom of self-determination, our freedom from tyranny and violence—these are the rewards that the American soldier has delivered, generation after generation, to a grateful and humble nation. So long as the United States remains a beacon for freedom, democracy, and justice, their sacrifices will never be forgotten.

To the family of SSG Jarred Fontenot—to his wife, Dana, his four children, to his grandparents Charles and Dorthy, and to his sister—I know of no words that can describe or assuage the pain you feel. I pray that in time you can find comfort in the knowledge that Jarred was doing something he truly loved, of which he was extraordinarily proud, and for which his country is eternally grateful.

''For where the rewards of virtue are greatest,'' Pericles reminded the departing Athenian crowd, ''there the noblest citizens are enlisted in the service of the state.'' Jarred Fontenot was among the noblest of our citizens. May his legacy endure in the strength of our democracy.

Mr. LAUTENBERG. Mr. President, another 2 months have passed, and more American troops lost their lives overseas in Iraq and Afghanistan. It is only right that we take a few moments in the U.S. Senate to honor them. Outside my office here in Washington, we have a tribute called ''Faces of the Fallen.'' Visitors to the Senate from across the country have stopped by the memorial. I encourage my colleagues to come see this tribute on the third floor of the Hart Building.

I last came to the Senate floor to honor our fallen troops in early August. Since that time, the Pentagon has announced the deaths of 182 troops in Iraq and in Operation Enduring Freedom, including in Afghanistan. They will not be forgotten. So today I will read their names into the RECORD:

PO3 Mark R. Cannon, of Lubbock, TX
SPC Chirasak Vidhyarkorn, of Queens, NY
SGT Randell Olguin, of Ralls, TX
GYSGT Herman J. Murkerson Jr., of Adger, AL
SGT Robert T. Ayres III, of Los Angeles, CA
SGT Zachary D. Tellier, of Charlotte, NC
SSGT Donnie D. Dixon, of Miami, FL
James D. Doster, of Pine Bluff, AR
SPC Ciara M. Durkin, of Quincy, MA
Randy L. Johnson, of Washington, DC
SPC Mathew D. Taylor, of Cameron Park, CA
PFC Christopher F. Pfeifer, of Spalding, NE

PO2 Charles Luke Milam, of Littleton, CO
SSGT Zachary B. Tomczak, of Huron, SD
CPL Anthony K. Bento, of San Diego, CA
SSGT Kevin R. Brown, of Harrah, OK
Matthew D. Blaskowski, of Levering, MI
SPC David L. Watson, of Newport, AR
SPC Joshua H. Reeves, of Watkinsville, GA
CSM Jonathan M. Lankford, of Scottsboro, AL
CAPT (Dr.) Roselle M. Hoffmaster, of Cleveland, OH
SPC John J. Young, of Savannah, GA
PFC Luigi Marciante Jr., of Elizabeth, NJ
CPL Graham M. McMahon, of Corvallis, OR
SGT Edmund J. Jeffers, of Daleville, AL
PFC Christian M. Neff, of Lima, OH
SPC Aaron J. Walker, of Harker Heights, TX
SPC Joseph N. Landry III, of Pensacola, FL
SPC Nicholas P. Olson, of Novato, CA
SPC Donald E. Valentine III, of Orange Park, FL
SPC Matthew J. Emerson, of Grandview, WA
SPC Brandon T. Thorsen, of Trenton, FL
SSGT Michael L. Townes, of Las Vegas, NV
SSGT Terry D. Wagoner, of Piedmont, SC
CPL Todd A. Motley, of Clare, MI
CPL Jonathan Rivadeneira, of Jackson Heights, NY
PFC Christopher M. McCloud, of Malakoff, TX
CPL Terrence P. Allen, of Pennsauken, NJ
SGT John Mele, of Bunnell, FL
SSGT Yance T. Gray, of Ismay, MT
SSGT Gregory Rivera-Santiago, of St. Croix, VI
SGT Michael C. Hardegree, of Villa Rica, GA
SGT Omar L. Mora, of Texas City, TX
SGT Nicholas J. Patterson, of Rochester, IN
SPC Ari D. Brown-Weeks, of Abingdon, MD
SPC Steven R. Elrod, of Hope Mills, NC
SSGT Courtney Hollinsworth, of Yonkers, NY
CPL Carlos E. Gilorozco, of San Jose, CA
LCPL Jon T. Hicks Jr., of Atco, NJ
CPL Travis M. Woods, of Redding, CA
CPL Javier G. Paredes, of San Antonio, TX
PFC Sammie E. Phillips, of Cecilia, KY
LCPL Lance M. Clark, of Cookeville, TN
SGT Alexander U. Gagalac, of Wahiawa, HI
CAPT Drew N. Jensen, of Clackamas, OR
SPC Marisol Heredia, of El Monte, CA
CPL Ryan A. Woodward, of Fort Wayne, IN
CPL Christopher L. Poole Jr., of Mount Dora, FL
CPL Bryan J. Scripsick, of Wayne, OK
SSGT John C. Stock, of Longview, TX
SGT Michael J. Yarbrough, of Malvern, AR
SGT Lee C. Wilson, of Chapel Hill, NC
SPC Jason J. Hernandez, of Streetsboro, OH
SPC Thomas L. Hilbert, of Venus, TX
PFC Mykel F. Miller, of Phoenix, AZ
SGT Joel L. Murray, of Kansas City, MO
SPC David J. Lane, of Emporia, KS
PVT Randol S. Shelton, of Schiller Park, IL
CPL Keith A. Nurnberg, of McHenry, IL
1st SGT David A. Cooper Jr., of State College, PA
SSGT Delmar White, of Wallins, KY
CPL William T. Warford III, of Temple, TX
SPC Dane R. Balcn, of Colorado Springs, CO
SPC Rodney J. Johnson, of Houston, TX
MSGT Patrick D. Magnani, of Martinez, CA
SPC Christopher G. Patton, of Lawrenceville, GA
SGT Kevin A. Gilbertson, of Cedar Rapids, IA
PVT Justin T. Sanders, of Watson, LA
SPC Travis M. Virgadamo, of Las Vegas, NY
1stSGT Daniel E. Scheibner, of Muskegon, MI
SSGT Andrew P. Nelson, of Moorhead, MN
SSGT Jason M. Butkus, of West Milford, NJ
SPC Edward L. Brooks, of Dayton, OH
CPL John C. Tanner, of Columbus, GA
CAPT Erick M. Foster, of Wexford, PA
Maj. Henry S. Ofeciar, of Agana, Guam
MSGT Scott R. Ball, of Mount Holly Springs, PA
SGT Jan M. Argonish, of Peckville, PA
1stSGT Rocky H. Herrera, of Salt Lake City, UT
SGT Cory L. Clark, of Plant City, FL
SGT Bryce D. Howard, of Vancouver, WA
SGT James S. Collins Jr., of Rochester Hills, MI
PFC Thomas R. Wilson, of Maurertown, VA
LCPL Rogelio A. Ramirez, of Pasadena, CA
SSGT Nicholas R. Carnes, of Dayton, KY
SGT Joshua L. Morley, of Boise, ID
SPC Tracy C. Willis, of Marshall, TX
LCPL Matthew S. Medlicott, of Houston, TX
1stSGT Daniel E. Miller, of Rossford, OH
1stSGT Scott M. Carney, of Ankeny, IA
1stSGT David A. Heringes, of Tampa, FL
PFC Edgar E. Cardenas, of Lilburn, GA
1stSGT Adrian M. Elizalde, of North Bend, OR
1stSGT Michael J. Tully, of Falls Creek, PA
SSGT Sandy R. Britt, of Apopka, FL
CAPT Corry P. Tyler, of GA
CWO Paul J. Flynn, of Whitsett, NC
SGT Matthew L. Tallman, of Groveland, CA
SPC Rickey L. Bell, of Caruthersville, MO
CAPT Derek A. Dobogai, of Fond du Lac, WI
SSGT Jason L. Paton, of Poway, CA
SGT Garrett I. McLead, of Rockport, TX
CPL Jeremy P. Bouffard, of Middlefield, MA
CPL Phillip J. Brodnick, of New Lenox, IL
CPL Joshua S. Harmon, of Mentor, OH
CPL Nathan C. Hubbard, of Clovis, CA
SPC Michael A. Hook, of Altoona, PA
SPC Jessy G. Pollard, of Springfield, MO
SPC Tyler R. Seideman, of Lincoln, AR
PFC Omar E. Torres, of Chicago, IL
PFC Donovan D. Witham, of Malvern, AR
CPL Willard M. Powell, of Evansville, IN
SPC George V. Libby, of Aberdeen, NC
SSGT Paul B. Norris, of Cullman, AL
SPC Kamisha J. Block, of Vidor, TX
CAPT Michael S. Fielder, of Holly Springs, NC
1st Lt. Jonathan W. Edds, of White Pigeon, MI
SGT Princess C. Samuels, of Mitchellville, MD
SPC Zandra T. Walker, of Greenville, SC
SSGT Robert R. Pirelli, of Franklin, MA
SPC Alun R. Howells, of Parlin, CO
SSGT Eric D. Cottrell, of Pittsview, AL
CPL Juan M. Lopez Jr., of San Antonio, TX
PFC Paulomarko U. Pacificador, of Shirley, NY
CWO Christopher C. Johnson, of MI
CWO Jackie L. McFarlane Jr., Virginia Beach, VA
SSGT Sean P. Fisher, of Santee, CA
SSGT Stanley B. Reynolds, of Rock, WV
SPC Steven R. Jewell, of Bridgeton, NC
SSGT Alicia A. Birchett, of Mashpee, MA
CPL Shawn D. Hensel, of Logansport, IN
SSGT William D. Scates, of Oklahoma City, OK
SGT Scott L. Kirkpatrick, of Reston, VA
SGT Andrew W. Lancaster, of Stockton, IL
SPC Justin O. Penrod, of Mahomet, IL
SGT Michael E. Tayaotao, of Sunnyvale, CA
1st SGT Jeffrey D. Kettle, of Madill, OK
SSGT Jesse G. Clowers Jr., of Herndon, VA
SGT Charles B. Kitowski III, of Farmers Branch, TX
SPC William L. Edwards, of Houston, TX
PVT Alan J. Austin, of Houston, TX
SPC Jordan E. Goode, of Kalamazoo, MI
SSGT Joan J. Duran, of Roxbury, MA
CPL Reynold Armand, of Rochester, NY
SPC Donald M. Young, of Helena, MT
SSGT Jacob M. Thompson, of North Mankato, MN
SGT Nicholas A. Gummersall, of Chubbuck, ID
CPL Juan M. Alcantara, of NY
CPL Kareem R. Khan, of Manahawkin, NJ
SPC Justin R. Blackwell, of Paris, TN
PFC Jeremy S. Bohannon, of Bon Aqua, TN
SGT Jon E. Bonnell Jr., of Fort Dodge, IA
SPC Christopher T. Neiberger, of Gainesville, FL
1stSGT Travis S. Bachman, of Garden City, KS
SGT Bradley W. Marshall, of Little Rock, AR
SPC Daniel F. Reyes, of San Diego, CA
SPC Charles E. Leonard Jr., of Monroe, LA
PFC Matthew M. Murchison, of Independence, MO
SGT Dustin S. Wakeman, of Fort Worth, TX
CPL Jason K. Lafleur, of Ignacio, CO
SPC Jaron D. Holliday, of Tulsa, OK
LCPL Cristian Vasquez, of Coalinga, CA
Tech. SGT Joey D. Link, of Portland, TN
SPC Braden J. Long, of Sherman, TX
MSGT Julian Ingles Rios, of Anasco, Puerto Rico
SSGT Fernando Santos, of San Antonio, TX
SPC Cristian Rojas-Gallego, of Loganville, GA
SPC Eric D. Salinas, of Houston, TX
SGT Taurean T. Harris, of Liberty, MS
SPC Zachariah J. Gonzalez, of IN
PFC Charles T. Heinlein Jr., of Hemlock, MI
PFC Alfred H. Jairala, of Hialeah, FL

To date, more than 3,800 American men and women have lost their lives in Iraq. And more than 440 have lost their lives in Operation Enduring Freedom, including in Afghanistan.

This list includes five soldiers from NJ: PFC Luigi Marciante Jr. of Elizabeth, NJ, CPL Terrence P. Allen, of Pennsauken, NJ, LCPL Jon T. Hicks Jr., of Atco, NJ, SSGT Jason M. Butkus, of West Milford, NJ and CPL Kareem R. Khan, of Manahawkin, NJ.

We will not forget them and the Nation will not forget their sacrifice.

LABOR–HHS APPROPRIATIONS

Mr. LEVIN. Mr. President, I voted, yesterday, in favor of the Ensign amendment to deny credit toward Social Security benefits claimed in violation of the Social Security Act. This would deny benefits to people, including undocumented workers, who have, in the words of the act, ''willfully, knowingly, and with the intent to deceive used false Social Security numbers.''

The Ensign amendment was more carefully focused on denying benefits based on illegal use of a fake Social Security number, unlike previous Ensign amendments which I did not support.

Yesterday's Ensign amendment requires the Commissioner of Social Security to deny Social Security benefits for work performed by any individual using a Social Security account number which was not his, in violation of section 208 of the Social Security Act at 42 U.S.C. 408.

The Ensign amendment was adopted yesterday by the Senate.

This amendment differs from a previous amendment offered by Senator ENSIGN in the 109th Congress, which could have harmed senior citizens and other individuals who may have made an honest error.

That amendment was rejected by the Senate.

In July of 2007, Senator ENSIGN proposed an amendment to the College Cost Reduction Act which could have

led to a highly unfair loss of benefits to naturalized citizens or others who are legally present. The provisions of that amendment would have posed great problems because it would have denied Social Security benefits to legally naturalized citizens, for instance, unless the Social Security Administration could affirmatively determine that the individual was legally authorized to work. This amendment would have placed an unmanageable burden on the Social Security Administration and seniors who have been legally present for decades, who could have unfairly lost their benefits.

This amendment also failed in the Senate.

Ms. SNOWE. Mr. President, the Social Security Administration, SSA, is currently facing nothing short of a crisis when it comes to processing disability claims. Indeed, SSA Commissioner Michael Astrue has called this issue his agency's most pressing challenge. Currently, there are over 756,000 individuals who are waiting for a hearing to have their claims adjudicated, and the average wait time is a staggering 512 days. That is the longest amount of time in SSA's history. In contrast, in 2001, disability applicants had to wait an average of 308 days for a hearing. While that was still far too long, individuals now have to wait 66 percent longer. Sadly, some people have died waiting for a hearing.

To help the SSA process disability claims more quickly, I was proud that, yesterday, the Senate voted 88 to 6 to approve an amendment to the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act that Senators BINGAMAN, BAUCUS, and I offered to increase funds dedicated to the agency's administrative costs by $150 million. We believe that this added funding will help the SSA reduce its disability backlog and enable individuals to access the benefits to which they are entitled and need for their basic living expenses. Because of the financial strains on applicants and their families, it is simply unconscionable to have individuals waiting for upwards of 2 years before they receive ruling on their disability claims. We can and must do better—it is our moral obligation.

Although I strongly believe that providing the SSA with additional resources is warranted, I would like to thank the two managers of the Labor-HHS bill—Senators HARKIN and SPECTER—for working so hard to increase funding for the SSA and for supporting our amendment. It is notable that the underlying bill they brought to the Senate floor would have provided $9.72 billion for the SSA in fiscal year 2008, an increase of $426.4 million over fiscal year 2007 and $125 million over President Bush's fiscal year 2008 budget.

The fact is that we have underfunded the SSA for years and must begin to reverse this trend. Indeed, according to SSA data, one reason wait times for disability hearings have risen so precipitously is that between fiscal years 2001 and 2007, Congress provided on average $150 million less than President Bush requested for the agency. At the same time, Congress gave SSA more work, including the responsibility to review Medicare beneficiaries' income and determine whether they should be charged higher premiums or if they are eligible for assistance to pay for premiums and fees in the Medicare prescription drug program. I would note that last year, Congress had to include an additional $36.6 million in the fiscal year 2007 continuing resolution just to prevent the agency from furloughing each of its employees for 10 days, as well as close offices around the Nation.

Finally, I would also like to thank the Senate for unanimously adopting a second amendment on Monday that I offered to require the Government Accountability Office, GAO, to evaluate the SSA's plan to both reduce the disability hearing backlog and improve disability benefits processing. Senators HARKIN and SPECTER presciently asked for the SSA to produce this report when the Appropriations Committee approved the underlying Labor-HHS bill. Commissioner Astrue submitted his Agency's plan to Congress on September 13.

I believe it would be extraordinarily useful for GAO to look at the SSA's plan and make recommendations to make it even more effective. The bottom line is that we know that it is crucial that we ensure that the plan to rectify problems of disability processing will be productive. While the SSA has been among our most efficient agencies, this GAO evaluation will help ensure that the plan put in place will best use the funds we are acting to provide.

Mr. President, in closing, I hope that conferees will retain the two SSA administrative costs amendments the Senate adopted so resoundingly this week in the forthcoming Labor-HHS conference report, so that President Bush may sign them into law. This Nation's disabled deserve nothing less.

DEFENSE AUTHORIZATION

Mr. KYL. Mr. President, I rise today to bring the attention of the Senate to a provision of the fiscal year 08 Defense Authorization Act, now in conference. Section 3122 of the bill undermines the Senate's position on the Comprehensive Nuclear Test Ban Treaty, CTBT, without the benefit of neither the historical treaty consideration process nor a senous policy debate.

It has been 9 years since the CTBT was the subject of any deliberation by the Senate, which ultimately concluded that its ratification was not in the Nation's interests. There were numerous objections that proved determinative then and remain true today.

First, the U.S. deterrent cannot be maintained without testing. U.S. nuclear weapons have the highest average age of any in the world. Some, like the W–76 warhead, the backbone of the submarine-based component of our nuclear triad, date back to 1966, making them more than four times as old as the average American car.

Given the high average age, now at its highest point in the six decade history of nuclear weapons, they require substantial, ongoing modification if they are to be maintained as a viable deterrent. As the then-Director of Sandia National Laboratories, Dr. C. Paul Robinson, testified to the Senate, ''To forego validation through testing is, in short, to live with uncertainty.'' We cannot afford uncertainty when it comes to the reliability, safety, and credibility of our most important weaponry.

Some believe that the reliable replacement warhead, RRW, can be developed and introduced without underground testing. Even if that judgment proves correct, it will be many years before we no longer need to rely on the older designs in the current arsenal for deterrence. As the administration noted in a recent statement by Secretaries Bodman, Gates, and Rice, ''delays on RRW also raise the prospect of having to return to underground nuclear testing to certify existing weapons.'' But, underground testing would be an option permanently denied to the United States through ratification of CTBT as section 3122 endorses.

This permanent loss of the testing option would be even more problematic if we need to continue to rely on these aging designs for decades more as we would if current plans, including those passed by the House and proposed in the Senate, that eliminate RRW funding are not rejected.

Further, the cuts proposed to RRW compound the impact of current plans to cut more than $500 million in funding for the nuclear weapons complex that supports, maintains, and refurbishes the weapons currently in the complex. These proposed cuts to RRW and the nuclear weapons complex have been rejected by individuals of great authority, including Secretaries Kissinger and Schultz, and Dr. Sidney Drell.

The second reason the Senate rejected the treaty in 1999, and would do so again today, is that the treaty is not verifiable. Militarily significant covert nuclear testing can—and almost certainly will—be conducted at low yields or in other ways aimed at masking the force of an explosion.

Assistant Secretary Paula DeSutter of the State Department's Bureau of Verification, Compliance, and Implementation recently made this point. She stated that the International Monitoring System set up to monitor compliance with CTBT is ''aimed to detect detonations over 1 kiloton; smaller or concealed detonations are less likely to be identified. Evasion techniques can easily reduce the signature of a nuclear explosion by factors of 50 or 100.''

Third, CTBT's unverifiability means a ban will not have uniform effects.

Our inability under CTBT to monitor the state of foreign nuclear weapons programs effectively means that hostile or potentially hostile countries will be able to modernize their weapons even as the U.S. arsenal steadily degrades. As a result, the long-term effect of CTBT accession would translate into the inevitable, if gradual, unilateral disarmament of our Nation's deterrent.

Fourth, CTBT would damage the struggle against proliferation. On the one hand, the inherent unverifiability of the CTBT can be expected to encourage rogue state regimes to believe they could pursue nuclear weapons programs with impunity. On the other, the attendant erosion of our deterrent would mean that allied countries—notably, Japan, Taiwan and perhaps South Korea—that currently rely on the U.S. deterrent ''umbrella'' would be more likely to develop their own nuclear weapons.

As Dr. James Schlesinger remarked in testimony before the Armed Services Committee in 1999, ''the chief barrier to proliferation in these last 55 years since Hiroshima has been confidence in the protection offered by the American deterrent. It is the reason, quite simply, that nations like [South] Korea or Japan, or more complicated, in the case of Germany, have not sought nuclear weapons. Because of the NATO agreement, because of the Japan Treaty, because of our agreements with the Koreans, they have not felt the necessity of taking that final plunge. As confidence on their part in the U.S. deterrent wanes over a period of . . . years, what is the likelihood that those nations will refrain from seeking nuclear weapons? I think that it is very modest.''

Finally, the Senate rejected the CTBT in 1999 because it realized that the Stockpile Stewardship Program, SSP, is a ''crap-shoot,'' as Troy Wade, a retired Department of Energy nuclear scientist, referred to it in his testimony before the Committee on Foreign Relations in 1999. It remains doubtful whether the SSP, supported by CTBT advocates as a substitute for nuclear testing, can adequately meet the maintenance and refurbishment needs of the U.S. nuclear arsenal. As a result, it will become ever more likely that dangerous anomalies in our weapons will pass unnoticed.

Despite these abiding concerns and the Senate vote in 1999, the 2008 Defense authorization bill would put the Senate on record in support of CTBT's ratification without hearings or debate. How can new Senators—37 since 1999—be expected to have reached such a conclusion?

Preordaining the ratification of a treaty, as is done in section 3122 of this bill, does a disservice to the Senate's history of thoughtful consideration of treaties proposed for ratification, especially when the treaties were on issues with the gravity of the Comprehensive Nuclear Test Ban Treaty.

I would be remiss if I didn't reference the comments of Secretary of State Rice in a recent letter. She stated that the administration does not support the Comprehensive Nuclear Test Ban Treaty and ''does not intend to seek Senate advice and consent to its ratification.''

I also call the attention of the Senate to the Statement of Administration Policy on this bill which states strong opposition to section 3122 due to its dangerous implications for the reliability of our nuclear deterrent.

Mr. President, I note that these are not simply the concerns of this Senator. The letter I will ask to have printed in the CONGRESSIONAL RECORD makes clear that 40 of my fellow Senators share many of these concerns about the CTBT and the unprecedented approach taken by this bill. My colleagues recognize as I do that since the reasons for the rejection of this treaty in 1999 have not changed, neither should the Senate's position.

Mr. President, I ask unanimous consent to have the letter to which I just referred printed in the RECORD.

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

U.S. SENATE,
Washington, DC, October 23, 2007.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEVIN: One of the Senate's most important national security debates of the last decade was whether to ratify the Comprehensive Nuclear-Test-Ban Treaty (CTBT). In the end, following a rigorous and thorough debate, 51 Senators voted to reject the CTBT, 17 more than necessary to assure its defeat.

The principal reasons the Senate rejected the CTBT were its lack of verifiability, adverse effect on the safety and reliability of our nuclear stockpile, and potential to increase nuclear proliferation.

We are not aware of any congressional hearings on this treaty since its rejection in 1999. The total absence of discussion in the more than eight years since its rejection belies the assertion in section 3122 of S. 1547 that the CTBT now should be ratified. Moreover, the 37 Senators who have joined the Senate since this treaty was rejected deserve to have the benefit of a careful and measured review of this treaty. There is no basis on which they can conclude that CTBT should be ratified.

The Constitution of the United States invests an extraordinary responsibility in the Senate to provide measured and thoughtful review of treaties when submitted by the President for our consideration. The Senate has not had the opportunity for such review since 1999. In a recent letter, Secretary of State Rice stated that the Administration does not support the Comprehensive Nuclear-Test-Ban Treaty and ''does not intend to seek Senate advice and consent to its ratification.'' The Statement of Administration Policy on S. 1547 likewise states strong opposition to section 3122 due to its dangerous implications for the reliability of our nuclear deterrent.

Under all of these circumstances, we believe it denigrates the serious role of the U.S. Senate to claim in section 3122 to express the ''sense of the Congress'' that the CTBT should be ratified.

Sincerely,

Jon Kyl, John McCain, Johnny Isakson, James Inhofe, Mike Crapo, Wayne Allard, Jeff Sessions, Michael B. Enzi, Sam Brownback, C.S. Bond, Larry E. Craig, Bob Corker, Saxby Chambliss, John Thune, Trent Lott, John Cornyn, Jim DeMint, Jim Bunning, David Vitter, John Ensign, Kay Bailey Hutchison, Ted Stevens, Pete V. Domenici, Olympia Snowe, Mitch McConnell, Elizabeth Dole, John Barrasso, Richard C. Shelby, Thad Cochran, Chuck Grassley, Norm Coleman, Mel Martinez, Tom Coburn, Lindsey Graham, Lisa Murkowski, Richard Burr, John E. Sununu, Judd Gregg, Orin Hatch, Lamar Alexander, Pat Roberts.

ADDITIONAL STATEMENTS

CONGRATULATING MOOSEHEAD MANUFACTURING COMPANY

• Ms. SNOWE. Mr. President, I wish to congratulate Moosehead Manufacturing Company, a small firm in Monson, Maine, that will soon be reopening its doors. For 60 years, Moosehead Manufacturing had been a thriving business that exemplified the quality of Maine production. Unfortunately, after facing tough challenges from the global economy earlier this year, Moosehead ceased production. With the help of new investors, the company recently announced that it will recommence production and hire 40 employees in Monson, continuing its legacy of providing quality furniture to the State of Maine and beyond.

Moosehead Manufacturing specializes in producing exceptional Maine-made furniture. The company prides itself on the durable and hand-finished aspects of its products, which it offers to consumers at competitive prices. Not only does Moosehead Manufacturing provide valuable employment opportunities, it procures all of its production resources from within the State, helping Maine's economy. The furniture is built from hardwoods harvested from neighboring forests, cut in Moosehead's own saw mills, and dried in its own kilns. Moosehead has been described as ''an amazing corporate citizen'' by Tom Lizotte, a Piscataquis county commissioner.

Moosehead Manufacturing was founded in 1947 by the Wentworth family. At its peak of production in the late 1990s, it was the largest privately owned furniture factory in New England, employing about 250 workers. Recently, increasing imports of cheap, foreign-made furniture have threatened Moosehead's business. In 2003, Moosehead Manufacturing joined a group of furniture makers nationwide in petitioning the Government to place duties on some of the furniture that China imports to the United States. I echoed their sentiments in a letter I sent to Secretary of Commerce Evans stating my deep concern with the impact Chinese imports were having on

the small and midsized American companies fighting to compete. The problem reached a climax when Moosehead announced its closure in February 2007. The communities of Monson and Dover-Foxcroft, where the company maintained its factories, were dealt great blows with the loss of nearly 130 jobs. And while I was disappointed that Moosehead was forced to shut down its facilities, I fully supported trade adjustment assistance funds to workers who lost their jobs.

However, three new buyers recently stepped forward to save Moosehead Manufacturing: Joshua Tardy, the minority leader of the Maine House of Representatives; Dana Connors, president of the Maine State Chamber of Commerce; and Ed Skovron, a financier from Rhode Island. Under the continued management of John Wentworth, Moosehead will soon resume production in Monson, much to the relief of Piscataquis County, and will return to making longlasting furniture in which Mainers can take pride.

Moosehead Manufacturing's reopening is exciting for the economic prospects of both Monson and Maine. Not only does it provide necessary employment opportunities, but it also sets a precedent for continued, Maine-based manufacturing established on quality and durability in the face of an increasingly competitive global market. I wish the owners and employees of Moosehead Manufacturing Company continued success in the coming years. I look forward to its exciting return to Maine's business scene.●

TRIBUTE TO DR. EILEEN SCHMITT

● Mr. BIDEN. Mr. President, at the end of this year, Dr. Eileen Schmitt, a friend and fixture in our Wilmington community, is retiring, and I want to share her inspirational story because there is much all of us can learn from her.

As we debate health care, again, and again, and again in this Chamber, Dr. Schmitt has lived the life Mother Teresa called for when she said: Do not wait for leaders; do it alone, person to person.

A talented medical doctor who rose to become president and chief executive officer of St. Francis Hospital, she walked away from her fancy title and big desk in 2001 to do her true calling, healing the poorest in our community. She became the medical director for the St. Clare Medical Van, making her rounds in a mobile van to provide free health care to those who have no insurance.

The van pulls up, and there may be 20 people waiting—some earn minimum wage, some don't have a job, some are homeless, many are children—and she asks for no money, no insurance. She just sees to their medical needs.

As part of her work, she arranges for doctors to donate their time, and launched drives to create a pharmaceutical fund for prescription medicines for her patients. If funds are low or a patient needs something right away, she buys it herself. That is the type of person she is.

And in her spare time, you can find her teaching her patients English, and bringing clothes to the families she visits.

When someone asked her why she does it, she explained:

> When I first went into medicine, I wanted to do missionary work. I think getting back to taking care of people—especially people who don't have the means to get medical care—helps to fulfill my initial calling.

The acts of love and compassion she provides every day may seem small in our prosperous country of 300 million people, but America would be much less of a Nation were it not for Dr. Schmitt.

Her patients call her their angel, and indeed she has been one to them. But she also is an inspiration to all Americans, reminding us that small acts, one person at a time, touch and change our neighborhoods.

I know Senator CARPER, Congressman CASTLE, and all my colleagues thank Dr. Schmitt and wish her happiness and health as she retires.●

CONGRATULATING GEORGE F. POTARACKE

● Mr. KOHL. Mr. President, I would like to take this time to congratulate Mr. George F. Potaracke on his retirement from the Wisconsin Board on Aging and Long Term Care, where he has served as executive director since 1981.

Mr. Potaracke has been with the Board on Aging and Long Term Care since its inception in the early 1980s and was selected as its first executive director. Under his leadership, the Board on Aging and Long Term Care has grown from an agency of only 3 employees to an agency of 30 employees with offices throughout the State.

Along with his duties as executive director of the Board on Aging and Longterm Care, Mr. Potaracke directs the Wisconsin Medigap hotline, which provides counseling services for Medicare beneficiaries in Wisconsin. He is the treasurer of the National Citizens Coalition for Nursing Home Reform and an adviser to the National Health Policy Council and the Aging Leadership Council. He has served as president of the National Association of State Long Term Care Programs and leads fundraising efforts for this organization.

In addition to his work on behalf of seniors, Mr. Potaracke is actively involved with the national Human Rights Campaign, the AIDS Support Network of Southern Wisconsin, Frontier Men of Dane County, and the New Harvest Foundation, where he chairs fund-raising efforts.

Throughout his career, Mr. Potaracke has dedicated himself to a wide range of aging services. As chair of the Senate Special Committee on Aging, I have had the distinct privilege of working with Mr. Potaracke on a variety of issues and hold his opinion in the highest regard. He is nationally recognized as an advocate for our aging population and has truly made a difference on behalf of all seniors.

On behalf of our State and Nation, I thank Mr. Potaracke for his service and wish him good health, happiness, and prosperity for many years to come.●

TRIBUTE TO WALGREENS' 6000TH STORE IN NEW ORLEANS

● Ms. LANDRIEU. Mr. President, Walgreens, a leading national drug store chain, is today hosting a celebration for the opening of its 6,000th store, which is located in New Orleans, LA. I am thrilled that for this milestone the company has chosen my hometown, which is enduring a long recovery from Hurricane Katrina.

The greater New Orleans area is one of Walgreens' oldest and most distinct markets. The first store in the region opened in 1938, and the new store in the historic Carrollton neighborhood is the city's 48th. The company currently employs nearly 1,400 people in the area who serve thousands of patients and customers every day. Walgreens will become a wellness resource for Carrollton residents, some of whom have underserved health care needs.

In honor of the grand opening, Walgreens is today offering free blood glucose screenings in every New Orleans store to drive greater awareness of the diabetes epidemic and get more people on the path to prevention or early detection and treatment.

The Walgreens wellness tour bus will also travel to locations throughout the area today to provide a variety of tests, including cholesterol, blood pressure, bone density, and body mass index for individuals who otherwise may not have access to basic health screenings.

Immediately following Katrina, 74 Walgreens stores had to close because of physical damage and loss of power. It was the most significant operational challenge in the company's 106-year history. More than 700 Walgreens employee volunteers traveled from across the country to help with recovery efforts, filling hundreds of thousands of emergency prescriptions and providing vital supplies to evacuees. Walgreens was one of the first retailers to reopen, proving New Orleans was on the road to recovery. I am grateful for their great help to our region during the extremely challenging days following the storm and the flood that followed.

Through its investment, Walgreens is demonstrating its continued commitment to our great city and region. By next summer, Walgreens will have more stores in the New Orleans area than it did prior to the hurricane. I ask the Senate to join me in congratulating Walgreens and New Orleans for this longstanding and growing relationship.●

IN MEMORY OF DELAWARE STATE SENATOR JAMES T. VAUGHN

• Mr. BIDEN. Mr. President, earlier this month James T. Vaughn, a longtime State Senator who was a legend in Delaware, passed away, and I want to pay tribute to him.

Jim spent a lifetime in public service, enlisting in the Marine Corps during World War II; serving as a Delaware State Police trooper for two decades and as the State Corrections Commissioner; and entering our State Senate 27 years ago.

His seniority put him in powerful positions either as the chairman or member of the committees that oversaw budgets, revenues, taxation, judiciary, and corrections matters. In other words, he had his hand in everything, and most recently that meant establishing a veterans' home at Milford.

Jim had this tough image, always set in his way, and always an honest man, who scrutinized every matter and paid incredible attention to the taxpayers' dollars. Throughout his career no one worked harder for the people of Delaware than Jim Vaughan.

His constituents were his No. 1 priority, and last year when he became ill and was unable to campaign during his re-election, the voters still handily put him in office, recognizing a lifetime of responsiveness to their needs. It set a standard we can all admire.

Like this Senator, Jim was a lifetime Yankees fan. And he had a special place in his heart for Little League baseball. Babe Ruth once said:

> I won't be happy until we have every boy in America between the ages of six and sixteen wearing a glove and swinging a bat.

Babe Ruth would have appreciated Jim. For four decades he volunteered with the Smyrna-Clayton Little League, a group he originally helped organize. He served as its director, treasurer, equipment manager, and grass cutter—in fact, his wife Sylvia would joke that he loved to cut the grass there, but not at the family home in Clayton.

A few times I had the high honor of throwing the first pitch to start the season, and today the Smyrna-Clayton Little League Park is named for Jim.

The people of Delaware will miss Jim, and I extend my prayers and thoughts to his loving family.•

RETIREMENT OF AIR FORCE MAJOR GENERAL ROGER P. LEMPKE

• Mr. NELSON of Nebraska. Mr. President, I wish to pay tribute to one of America's finest military leaders, Air Force MG Roger P. Lempke, on the occasion of his retirement as adjutant general of the Nebraska National Guard.

The National Guard has been tested by the wars in Iraq and Afghanistan more than any period since World War II. Nationally, it has been a true test of the Guard to maintain strength at home and abroad during a time of lengthy deployments, mounting casualties, declining recruitment, and a shortage of equipment. Yet, in Nebraska during this period, under the competent leadership of General Lempke, the Nebraska National Guard has continued to thrive, pulling in record numbers of recruits, increasing retention, and establishing an active family support program.

General Lempke instills confidence, not only in the troops he commands and their families but in the elected officials he serves. Since the tragic attacks of September 11, 2001, and during the time of war that has followed, we are fortunate to have had his very capable leadership as he oversaw the National Guard's changing role into an active duty combat force. The American people have seen vividly that the National Guard is no longer a supplemental force; it serves in seamless fashion with the active duty.

As past president of the National Association of State Adjutants General, General Lempke has been a vocal advocate for the National Guard, working with the Pentagon to help shape policies on issues ranging from base closures to troop strength. A graduate of the Air Force Academy, this even-tempered Nebraska farm boy and devoted husband and father rose through the ranks to become a respected military leader, not only in Nebraska but among his peers nationally. He and I have worked closely together on many projects which benefited not only Nebraska but helped our Nation's military as a whole.

I will miss that close association with the general as our professional relationship comes to a close, but on a personal level, I will always be proud to call Roger P. Lempke a trusted and respected friend.•

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY DECLARED IN EXECUTIVE ORDER 13413 WITH RESPECT TO BLOCKING THE PROPERTY OF PERSONS CONTRIBUTING TO THE CONFLICT TAKING PLACE IN THE DEMOCRATIC REPUBLIC OF THE CONGO—PM 30

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:

The situation in or in relation to the Democratic Republic of the Congo, which has been marked by widespread violence and atrocities that continue to threaten regional stability and was addressed by the United Nations Security Council in Resolution 1596 of April 18, 2005, Resolution 1649 of December 21, 2005, and Resolution 1698 of July 31, 2006, continues to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency declared in Executive Order 13413 of October 27, 2006, and the related measures blocking the property of certain persons contributing to the conflict.

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 national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo, and the related measures blocking the property of certain persons contributing to the conflict in that country, must continue in effect beyond October 27, 2007.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 24, 2007*.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:43 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 327. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to develop and implement a comprehensive program designed to reduce the incidence of suicide among veterans.

H.R. 1284. An act to increase, effective as of December 1, 2007, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

H.R. 3233. An act to designate the facility of the United States Postal Service located at Highway 49 South in Piney Woods, Mississippi, as the ''Laurence C. And Grace M. Jones Post Office Building''.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 12:40 p.m., a message from the House of Representatives, delivered by Mrs. Cole, 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. 1011. An act to designate additional National Forest System lands in the State of Virginia as wilderness or a wilderness study area, to designate the Kimberling Creek Potential Wilderness Area for eventual incorporation in the Kimberling Creek Wilderness, to establish the Seng Mountain and Bear Creek Scenic Areas, to provide for the development of trail plans for the wilderness areas and scenic areas, and for other purposes.

H.R. 1680. An act to authorize the Secretary of Homeland Security to regulate the

sale of ammonium nitrate to prevent and deter the acquisition of ammonium nitrate by terrorists, and for other purposes.

H.R. 1808. An act to designate the Department of Veterans Affairs Medical Center in Augusta, Georgia, as the ''Charlie Norwood Department of Veterans Affairs Medical Center''.

H.R. 1955. An act to prevent homegrown terrorism, and for other purposes.

H.R. 2408. An act to designate the Department of Veterans Affairs outpatient clinic in Green Bay, Wisconsin, as the ''Milo C. Huempfner Department of Veterans Affairs Outpatient Clinic''.

H.R. 2868. To eliminate the exemption from State regulation for certain securities designated by national securities exchanges.

H.R. 3927. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1011. An act to designate additional National Forest System lands in the State of Virginia as wilderness or a wilderness study area, to designate the Kimberling Creek Potential Wilderness Area for eventual incorporation in the Kimberling Creek Wilderness, to establish the Seng Mountain and Bear Creek Scenic Areas, to provide for the development of trail plans for the wilderness areas and scenic areas, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1680. To authorize the Secretary of Homeland Security to regulate the sale of ammonium nitrate to prevent and deter the acquisition of ammonium nitrate by terrorists, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 1808. An act to designate the Department of Veterans Affairs Medical Center in Augusta, Georgia, as the ''Charlie Norwood Department of Veterans Affairs Medical Center''; to the Committee on Veterans' Affairs.

H.R. 1955. An act to prevent homegrown terrorism, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2408. An act to designate the Department of Veterans Affairs outpatient clinic in Green Bay, Wisconsin, as the ''Milo C. Huempfner Department of Veterans Affairs Outpatient Clinic''; to the Committee on Veterans' Affairs.

H.R. 2868. An act to eliminate the exemption from State regulation for certain securities designated by national securities exchanges; to the Committee on Banking, Housing, and Urban Affairs.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2216. A bill to amend the Internal Revenue Code of 1986 to extend the Indian employment credit and the depreciation rules for property used predominantly within an Indian reservation.

S. 2217. A bill to amend the Internal Revenue Code of 1986 to extend the taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 3564. An act to amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States through fiscal year 2011, 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–3729. A communication from the Assistant Chief Counsel for Hazardous Materials Safety, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Revision of Requirements for Authorization of Use of International Standards'' (RIN2137–AE01) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3730. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Fees for Unified Carrier Registration Plan and Agreement'' (RIN2126–AB09) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3731. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''National Air Tour Safety Standards'' ((RIN2120–AF07)(Docket No. FAA–1998–4521)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3732. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Noatak, AK'' ((RIN2120–AA66)(Docket No. 07–AAL–08)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3733. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''High-Intensity Radiated Fields Protection for Aircraft Electrical and Electronic Systems'' ((RIN2120–AI06)(Docket No. FAA–2206–23657)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3734. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Fire Penetration Resistance of Thermal Acoustic Insulation Installed on Transport Category Airplanes'' ((RIN2120–AI75)(Docket No. FAA–2006–24277)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3735. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Manhattan, KS'' ((RIN2120–AA66)(Docket No. 07–ACE–2)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3736. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Marshalltown, IA'' ((RIN2120–AA66)(Docket No. 07–ACE–4 page 27420)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3737. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Marshalltown, IA'' ((RIN2120–AA66)(Docket No. 07–ACE–4 page 27416)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3738. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Monticello, IA'' ((RIN2120–AA66)(Docket No. 07–ACE–3)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3739. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Monticello, IA'' ((RIN2120–AA66)(Docket No. 07–ACE–3 page 27415)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3740. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Recording of Major Repairs and Major Alterations'' ((RIN2120–AJ19)(Docket No. FAA–2007–28631)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3741. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Canby, MN'' ((RIN2120–AA66)(Docket No. 07–AGL–2)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3742. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Canby, MN'' ((RIN2120–AA66)(Docket No. 07–AGL–2 page 27417)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3743. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Area Navigation Routes, Western United States'' ((RIN2120–AA66)(Docket No. 07–ANM–1)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3744. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Manhattan, KS'' ((RIN2120–AA66)(Docket No. 07–ACE–2 page 27418)) received on October 19, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3745. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled, ''Alaskan Way Viaduct: Emergency Relief Eligibility''; to the Committee on Environment and Public Works.

EC–3746. A communication from the Chief of the Border Security Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendments to List of User Fee Airports'' (CBP Dec. 07–83) received on October 18, 2007; to the Committee on Finance.

EC–3747. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed amendment to a manufacturing agreement for the export of defense services to Japan to support the maintenance of an infrared detecting system; to the Committee on Foreign Relations.

EC–3748. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a proposed re-export of firearms for end-use by the Afghan National Army; to the Committee on Foreign Relations.

EC–3749. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed agreement for the export of defense articles and services to provide maintenance support for the Iraqi Government's UH-1H helicopters; to the Committee on Foreign Relations.

EC–3750. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed technical assistance agreement for the export of defense services and articles to Germany and the United Kingdom related to the Nemesis Multi-Band Viper Laser Based Directional Infrared Countermeasures System; to the Committee on Foreign Relations.

EC–3751. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license agreement for the export of defense articles and services to Italy to establish a depot repair facility for night vision equipment; to the Committee on Foreign Relations.

EC–3752. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed technical assistance agreement for the export of defense services and articles to Korea in support of the Multi-Role Electronically Scanned Array Radar; to the Committee on Foreign Relations.

EC–3753. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense articles and services to Spain for the production of select components of the M2HB Machine Gun; to the Committee on Foreign Relations.

EC–3754. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license agreement for the export of defense articles and services to Canada for the development and manufacture of 45/9mm GI ammunition; to the Committee on Foreign Relations.

EC–3755. A communication from the Secretary of Defense and Acting Secretary of Veterans Affairs, transmitting, the report of a draft bill entitled, ''America's Wounded Warriors Act''; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1492. A bill to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation (Rept. No. 110–204).

By Mr. BAUCUS, from the Committee on Finance, without amendment:

S. 2223. An original bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to promote habitat conservation and restoration, and for other purposes (Rept. No. 110–205).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BIDEN for the Committee on Foreign Relations.

*Henrietta Holsman Fore, of Nevada, to be Administrator of the United States Agency for International Development.

*George E. Pataki, of New York, to be a Representative of the United States of America to the Sixty-second Session of the General Assembly of the United Nations.

*Kelly G. Knight, of Kentucky, to be an Alternate Representative of the United States of America to the Sixty-second Session of the General Assembly of the United Nations.

*Rodger D. Young, of Michigan, to be an Alternate Representative of the United States of America to the Sixty-second Session of the General Assembly of the United Nations.

*William H. Frist, of Tennessee, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of three years.

*Kenneth Francis Hackett, of Maryland, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of two years.

*David T. Johnson, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs).

*Robin Renee Sanders, of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

Nominee: Robin R. Sanders.

Post: Nigeria.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses, N/A.
4. Parents: Geneva Sanders, none; Robert M. Sanders, none.
5. Grandparents: Lucille Lawrence, none. Robert Saunders, Mary Spear, Major Spear—all deceased.
6. Brothers and Spouses, N/A.
7. Sisters and spouses: Sharon L. Sanders, none; Paula L. Sanders, none.

*Barry Leon Wells, of Ohio, a Career Member of the Senior Executive Service, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

Nominee: Barry Leon Wells.

Post: U.S. Ambassador, the Gambia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.
2. Spouse: Winsome P. Wells, none.
3. Children and spouses: Alicia R and Jon Duleba, none; Trudyann Powell, none.
4. Parents: Deceased.
5. Grandparents: Deceased.
6. Brothers and spouses: N/A.
7. Sisters and spouses: N/A.

*Mark M. Boulware, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Nominee: Mark M. Boulware.

Post: Chief of Mission.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses: Jeremy Boulware, none; Heather Boulware, none; Bartholemew Boulware, none; Alexander Boulware, none.
4. Parents: Everett L Boulware, deceased; Alice W. Boulware, none.
5. Grandparents: William T. Boulware, deceased; Mary C. Boulware, deceased; Clayton H. Chance, deceased; Beulah Chance, deceased.
6. Brothers and spouses: Michael D. Boulware, none; Mitchell D. Boulware, none; Sue Boulware, none.
7. Sisters and spouses: Marsha Yeager, none; William G. Yeager, none; Regina J. Gooden, none; Mark Gooden, none.

*James D. McGee, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zimbabwe.

Nominee: James David McGee.

Post: Zimbabwe.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.
2. Spouse: Shirley J. McGee, none.
3. Children & Spouses: N/A.
4. Parents: Ruby Mae McGee (nee: West), none; Jewel L. McGee, deceased.
5. Grandparents: James West, Sr., deceased; Malvena West, deceased; David McGee, deceased; Mary McGee, deceased.
6. Brothers and spouses: Ronald N. McGee, none; Kathy McGee, none.
7. Sisters and spouses: Mary Ann Dillahunty, none; Tyrone Dillahunty, none.

*Ronald K. McMullen, of Iowa, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Eritrea.

Nominee: Ronald K. McMullen.

Post: State, Office Director, INL/AP.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.
2. Spouse: Jane E. McMullen, none.
3. Children and spouses: Owen G. and Wyatt K. McMullen, none.

4. Parents: Jack D. and Jane J. McMullen, none.

5. Grandparents: Wayne and Doris Keith, G.H. and Lefie McMullen, all deceased.

6. Brothers and spouses, N/A.

7. Sisters and spouses: Cheryl McMullen Cheng, none.

*P. Robert Fannin, of Arizona, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

Nominee: Paul Robert Fannin.

Post: Dominican Republic.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, 10/18/06, $4,200, Jon Kyl; 10/16/06, $1,000, JD Hayworth; 10/6/06, $25,000, Republican National Committee; 9/26/06, $1,100, Rick Renzi; 9/25/06, $1,000, Rick Renzi; 9/5/06, $1,000, John Shadegg; 8/30/06, $1,000, JD Hayworth; 7/17/06, $500.00, Ron Drake; 5/19/06, $1,000, John Shadegg; 4/28/06, $1,000, Straight Talk America; 3/14/06, $10,000, Arizona Republican Party; 3/6/06, $1,000, Mark Kennedy; 1/20/06, $1,000, George Allen; 1/9/06, $2,000, Rick Santorum; 1/4/06, $2,500, Arizona Republican Party; 11/1/05, $1,000, Arizona Republican Party; 6/16/05, $500, Trent Franks; 5/6/05, $2,000, Rick Renzi; 4/14/05, $-500, Jon Kyl; 3/30/05, $-1522.10, Jon Kyl; 3/16/05, $2,500, Arizona Republican Party; 3/14/05, $1,000, Conservative National Committee; 3/12/05, $500, Jon Kyl; 2/15/05, $1,000, Jon Kyl; 2/11/05, $1900, Jon Kyl; 11/22/04, $538, Republican Party of Minnesota; 11/5/04, $1329, Republican Federal Committee of Pennsylvania; 11/5/04, $316, Nevada Republican State Central Committee; 11/4/04, $696, Missouri Republican State Committee-Federal; 11/4/04, $443, Oregon Republican Party; 11/4/04, $379, Arkansas Leadership Committee 2004 FCRC; 11/1/04, $253, Maine Republican Party; 10/30/04, $1,000, John McCain; 10/27/04, $253, New Hampshire Republican Committee; 10/25/04, $443, Republican Party of Iowa; 10/25/04, $1,265, Ohio Republican Party State Central & Executive Committee; 10/21/04, $1,000, John Shadegg; 10/19/04, $1,000, Pete Coors; 10/19/04, $1,076, Michigan Republican Party; 10/19/04, $347, Washington State Republican Committee; 10/19/04, $632, Republican Party of Wisconsin; 10/13/04, $1,000, John McCain; 10/1/04, $10,000, 2004 Joint State Victory Committee; 10/1/04, $1,708, Republican Party of Florida; 8/12/04, $1,200, Arizona Republican Party; 6/30/04, $5,000, Arizona Republican Party; 6/3/04, $300.00, Arizona Republican Party; 5/3/04, $500, Jeff Flake; 4/13/04, $2,000, Jon Kyl; 3/29/04, $3,500, Arizona Republican Party; 3/26/04, $1,000, John Thune; 2/17/04, $1,000, Conservative National Committee; 2/6/2004, $500, John Shadegg; 11/12/03, $5,000, Arizona Republican Party; 10/17/03, $500, Jon Kyl; 10/3/03, $3,500, Arizona Republican Party; 6/30/03, $2,000, George W. Bush; 5/21/03, $1,000, Richard Shelby; 5/19/03, $2,500, Senate Majority Fund; 5/14/03, $1,000, Rick Renzi; 5/7/03, $1,000, Jeff Flake; 4/17/03, $1,000, Conservative National Committee; 4/4/03, $1,500, Arizona Republican Party; 2/20/03, $1,000, Charles Grassley; 2/14/03, $1,000, John McCain; 12/17/02, $250.00, Lisa Atkins; 9/24/02, $1,000, Jim Kolbe; 9/20/02, $2,500, The Leadership Committee; 9/18/02, $2,500, The Leadership Committee; 8/13/02, $250, John Ganske; 7/22/02, $250, John Ganske; 6/12/02, $1500.00, Arizona Republican Party; 3/25/02, $500.00, James Inhofe; 2/26/02, $500, Susan Collins; 1/29/02, $875, Larry Craig.

2. Spouse, none.

3. Children and spouses: Elizabeth ''Lisa'' Fannin, 10/18/06, $4,200, Jon Kyl; 4/28/06, $1,000, Straight Talk America; 9/5/06, $1,000, John Shadegg; 3/27/06, $5,000, Arizona Republican Party; 3/10/06, $500, American Society of Anesthesiologists PAC; 3/16/05, $2,500, Arizona Republican Party; 3/15/05, $700, Jon Kyl; 3/12/05, $500, Jon Kyl; 2/11/05, $900, Jon Kyl; 10/30/04, $2,000, John McCain; 10/21/04, $1,000, John Shadegg; 8/12/04, $4,700, Arizona Republican Party; 6/30/04, $5,000, Arizona Republican Party; 5/10/04, $300, Arizona Republican Party; 5/3/04, $500, Jeff Flake; 4/13/04, $2,000, Jon Kyl; 3/9/04, $500, American Society of Anesthesiologists PAC; 12/31/03, $2,515, Arizona Republican Party; 11/12/03, $5,000, Arizona Republican Party; 10/13/03, $500, Arizona Republican Party; 6/30/03, $2,000, George W. Bush; 5/17/03, $2,500, Senate Majority Fund; 2/25/03, $500, American Society of Anesthesiologists PAC; 2/14/03, $1,000, John McCain; 12/17/02, $250, Lisa Atkins; 9/20/02, $5,000, The Leadership Committee; 5/17/02, $1,000, John Shade; 4/6/02, $1,000, Jeff Flake; 3/15/02, $500, American Society of Anesthesiologists PAC; 2/26/02, $500, Susan Collins. Paul Robert Fannin, Jr., 1/24/06, $200, Jon Kyl; 11/28/05, $1,900, Jon Kyl; 3/29/05, $1,000, Jon Kyl; 3/12/05, $500, Jon Kyl; 2/11/05, $500, Jon Kyl; 10/30/04, $2,000, John McCain; 10/26/04, $2,000, Arizona Republican Party; 10/21/04, $2,000, John Shadegg; 3/15/04, $270, Arizona Republican Party; 11/28/03, $5,000, Arizona Republican Party; 11/20/03, $2,000, George W. Bush; 10/15/02, $1,500, Rick Renzi; 5/22/02, $300.00, Arizona Republican Party. Sheryl Sue Fannin, 6/14/06, $500.00, Jon Kyl. Joseph William Fannin, none

4. Parents: Paul Jones Fannin, N/A. Elma Jean Fannin, N/A.

5. Grandparents: N/A.

6. Brothers and spouses: William Jones Fannin, none. Thomas Newton Fannin, 1/18/06, $500, Jon Kyl; 2/23/05, $500, Jon Kyl; 10/17/03, $500, Jon Kyl; 10/15/02, $1,000, Rick Renzi. Marianne Fannin, none.

7. Sisters and spouses: Linda Louise Rider, none.

*Christopher Egan, of Massachusetts, to be Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador.

Nominee: Christopher Fitzgerald Egan.

Post: U.S. Ambassador and Permanent Representative to the Organization for Economic Cooperation and Development.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self: ($500), 1/22/2003, Republican State Cmte of Massachusetts; $802, 6/30/2003, Bush, George W.; $10,000, 12/31/2003, Republican National Cmte; $2,000, 3/23/2004, Martinez, Mel; $1,000, 3/29/2004, Paterno, Scott; $2,000, 5/14/2004, Ryan, Jack; $1,000, 5/26/2004, Republican State Cmte of Massachusetts; $1,000, 7/1/2004, Crews, Ronald A.; $5,000, 7/15/2004, 2004 Joint State Victory Committee; $5,000, 7/15/2004, 2004 Joint Candidate Committee; $20,000, 7/15/2004, Republican National Cmte; ($2,000), 8/23/2004, Ryan, Jack; $5,000, 10/5/2004, Republican National Cmte; $1,000, 6/22/2005, Hastert, Dennis; $2,000, 6/24/2005, Santorum, Rick; $2,100, 9/20/2005, Taylor, Van; $1,000, 9/30/2005, Talent, James M.; $2,100, 11/1/2005, Ricketts, Pete; $2,100, 11/1/2005, Ricketts, Pete; $2,100, 12/15/2005, Steele, Michael; $1,000, 1/17/2006, Snowe, Olympia J.; $1,100, 3/6/2006, Talent, James M.; $900, 3/6/2006, Talent, James M.; $2,100, 3/31/2006, Lynch, Stephen F.; $2,100, 4/21/2006, Taylor, Van; $1,000, 6/27/2006, Kennedy, Mark; $15,000, 6/28/2006, Republican State Cmte of Massachusetts; ($5,000) 7/11/2006, Republican State Cmte of Massachusetts; $1,500, 8/18/2006, Bradley, Jeb; $25,000, 9/25/2006, Republican National Cmte; $1,000, 10/31/2006, Sweeney, John; $1,000, 10/31/2006, Kuhl, Randy; $1,000, 10/31/2006, Bass, Chalrie;$1,000, 11/1/2006, Schmidt, Jean; $1,000, 11/1/2006, Ryun, Jim; $1,000, 11/2/2006, Gutknecht, Gil; $1,000, 11/4/2006, Lewis, Ron; $1,000, 11/4/2006, Santorum, Rick.

2. Spouse: Jean C. Egan, $10,000, 12/31/2003, Republican National Cmte; $2,000, 4/22/2004, Martinez, Mel; $2,100, 9/20/2005, Taylor, Van; $1,000, 9/30/2005, Talent, James M.; $2,100, 2/6/2006, Taylor, Van; $2,100, 4/3/2006, Lynch, Stephen; $2,000, 8/18/2006, Bradley, Jeb; $15,000, 9/12/2006, Republican State Cmte of Massachusetts; ($5,000), 9/19/2006, Republican State Cmte of Massachusetts; $2,100, 10/23/2006, Lieberman, Joe.

3. Children and spouses: Mary Catherine Egan, none; Christopher C. Egan, none; Michael C. Egan, none.

Parents: Richard J. Egan, $500, 6/9/2003, Federer, Bill; $500, 6/9/2003, Cox, Christopher; $500, 6/9/2003, National Republican Senatorial Cmte; $1,000, 7/14/2003, Bunning, Jim; $1,000, 11/13/2003, Lynch, Stephen F.; $1,000, 12/2/2003, Republicans Abroad; $25,000, 12/22/2003, Republican National Cmte; $2,000, 3/1/2004, Nader, Ralph; $2,000, 3/1/2004, Parke, Greg; $2,000, 3/23/2004, Martinez, Mel; $1,000, 5/27/2004, Ryan, Jack; $250, 6/1/2004, National Republican Congressional Cmte; $250, 6/8/2004, Capuano, Michael E.; $1,000, 6/15/2004, Specter, Arlen; $1,000, 6/24/2004, Crews, Ronald A.; $20,000, 6/24/2004, RNC Presidential Trust; $5,000, 6/30/2004, 2004 Joint State Victory Committee; $5,000, 6/30/2004, 2004 Joint Candidate Committee; $1,000, 7/15/2004, New Hampshire Republican State Cmte; $500, 7/15/2004, Vermont Repub Federal Elections Cmte; $1,000, 8/19/2004, Crews, Ronald A.; $1,000, 8/19/2004, Thune, John; ($1,000), 8/23/2004, Ryan, Jack; $1,000, 9/19/2004, Bermudez, Claudia; $1,000, 9/30/2004, Crews, Ronald A.; $2,000, 10/5/2004, Martinez, Mel; $1,000, 10/5/2004, Bass, Charles; $1,000, 10/5/2004, Federer, Bill; $1,000, 10/5/2004, Bunning, Jim; $2,500, 10/28/2004, RNC Presidential Trust; $1,000, 4/26/2005, NH Republican State Committee; $500, 5/24/2005, Lewis, Hiram; $1,000, 6/6/2005, Hastert, Dennis; $2,000, 6/6/2005, Santorum, Rick; $2,000, 9/15/2005, Talent, James M.; $2,000, 1/5/2006, Bass, Charles; $1,000, 1/31/2006, Harris, Katherine; $2,000, 2/2/2006, Laffey, Stephen; $2,000, 2/25/2006, Shaw, Clay; $500, 2/25/2006, Delay, Tom; $2,100, 3/31/2006, Lynch, Stephen F.; $500, 5/19/2006, Morse, Charles A.; $25,000, 6/20/2006, Republican National Cmte; $1,000, 7/10/2006, Morse, Charles A.; $14,000, 8/29/2006, Republican State Cmte of Massachusetts; ($5,000), 9/19/2006, Republican State Cmte of Massachusetts; $12,500, 10/20/2006, Republican Joint Candidate Committee; $2,000, 10/31/2006, Santorum, Rick. Maureen E. Egan, $1,000, 11/26/2003, Lynch, Stephen F.; $10,000, 12/22/2003, Republican National Cmte; $1,000, 3/12/2004, Paterno, Scott; $2,000, 3/23/2004, Martinez, Mel; $1,000, 5/27/2004, Ryan, Jack; $20,000, 6/24/2004, RNC Presidential Trust; $5,000, 6/30/2004, 2004 Joint State Victory Committee; $5,000, 6/30/2004, 2004, Joint Candidate Committee; $500, 7/15/2004, Vermont RSC Victory 2004; ($1,000), 8/23/2004, Ryan, Jack; $2,000, 9/30/2004, Crews, Ronald A.; $2,000, 10/5/2004, Martinez, Mel; $2,500, 10/21/2004, RNC Presidential Trust; $1,000, 4/26/2005, NH Republican State Committee; $1,000, 6/6/2005, Hastert, Dennis; $2,000, 6/6/2005, Santorum, Rick; $1,000, 9/15/2005, Talent, James M.; $2,000, 2/2/2006, Laffey, Stephen; $15,000, 8/29/2006, Republican State Cmte of Massachusetts; $25,000, 9/11/2006, Republican National Cmte; ($5,000), 9/19/2006, Republican State Cmte of Massachusetts; $12,500, 1020/2006, Republican Joint Candidate Committee; $2,000, 10/31/2006, Santorum, Rick.

5. Grandparents: Kenneth Egan, deceased; Constance Egan, deceased; Patrick Fitzgerald—deceased; Mary Kate Fitzgerald—deceased.

Brothers and spouses: John R. Egan, $10,000, 12/31/2003, Republican National Cmte; $2,000, 3/23/2004, Martinez, Mel; $2,000, 4/26/2004, Nader, Ralph; $1,000, 7/6/2004, Crews, Ronald A.; $5,000, 7/15/2004, 2004 Joint State Victory Committee; $5,000, 7/15/2004, 2004 Joint Candidate Committee; $20,000, 7/15/2004, Republican National Cmte; $1,000, 6/22/2005, Hastert, Dennis; $2,000, 6/24/2005, Santorum, Rick; $15,000, 9/12/2006, Republican State Cmte of Massachusetts; ($5,000), 9/19/2006, Republican State Cmte of Massachusetts; Pamela Egan, $10,000, 12/31/2003, Republican National Cmte; $2,000, 3/23/2004, Martinez, Mel; $2,000, 4/26/2004, Nader, Ralph; $15,000, 9/12/2006, Republican State Cmte of Massachusetts; ($5,000), 9/19/2006, Republican State Cmte of Massachusetts; Michael J. Egan, $2,000, 6/10/2003, Bush, George W.; $5,000, 6/23/2003, Volunteer PAC; $10,000, 12/31/2003, Republican National Cmte; $2,000, 2/11/2004, Obey, David R.; $2,000, 3/23/2004, Martinez, Mel; $1,000, 7/1/2004, Crews, Ronald A.; $5,000, 7/15/2004, 2004 Joint State Victory Committee; $5,000, 7/15/2004, 2004 Joint Candidate Committee; $20,000, 7/15/2004, Republican National Cmte; $5,000, 10/6/2004, Republican National Cmte; $1,000, 6/22/2005, Hastert, Dennis; $2,100, 5/16/2006, Pombo, Richard; $2,100, 5/16/2006, Pombo, Richard; $15,000, 9/7/2006, Republican State Cmte of Massachusetts; ($5,000), 9/19/2006, Republican State Cmte of Massachusetts; Donna Egan, $2,000, 6/10/2003, Bush, George W.; $10,000, 12/31/2003, Republican National Cmte; $2,000, 2/11/2004, Obey, David R.; $2,000, 3/23/2004, Martinez, Mel; $500, 12/20/2006, McCain, John.

7. Sisters and spouses: Maureen Petracca, $2,000, 6/24/2003, Bush, George W.; $10,000, 12/31/2003, Republican National Cmte; $1,000, 6/22/2005, Hastert, Dennis; $2,000, 6/24/2005, Santorum, Rick; $15,000, 9/7/2006, Republican State Cmte of Massachusetts; ($5,000), 9/19/2006, Republican State Cmte of Massachusetts; Paul Petracca, $2,000, 6/24/2003, Bush, George W. $10,000, 12/31/2003, Republican National Cmte; $1,000, 7/1/2004, Crews, Ronald A.; $5,000, 7/15/2004, 2004 Joint State Victory Committee; $5,000, 7/15/2004, 2004 Joint Candidate Committee; $20,000, 7/15/2004, Republican National Cmte; $1,000, 11/1/2004, Crapo, Mike; $15,000, 9/7/2006, Republican State Cmte of Massachusetts; ($5,000), 9/19/2006, Republican State Cmte of Massachusetts; Catherine Walkey, $2,000, 6/27/2003, Bush, George W.; $10,000, 12/31/2003, Republican National Cmte; $2,000, 3/25/2004, Martinez, Mel; $2,000, 4/30/2004, Nader, Ralph; $1,000, 7/1/2004, Crews, Ronald A.; $5,000, 7/15/2004, 2004 Joint State Victory Committee; $5,000, 7/15/2004, 2004 Joint Candidate Committee; $20,000, 7/15/2004, Republican National Cmte; $5,000, 10/5/2004, Republican National Cmte; $15,000, 9/7/2006, Republican State Cmte of Massachusetts; ($5,000), 9/19/2006, Republican State Cmte of Massachusetts; Thomas R. Walkey, $2,000, 6/27/2003, Bush, George W.; $10,000, 12/31/2003, Republican National Cmte; $2,000, 3/25/2004, Martinez, Mel; $2,000, 4/30/2004, Nader, Ralph; $15,000, 10/1/2004, Republican National Cmte; $5,000, 10/6/2004, Republican National Cmte; $1,000, 6/22/2005, Hastert, Dennis; $2,000, 6/24/2005, Santorum, Rick; $15,000, 9/7/2006, Republican State Cmte of Massachusetts; ($5,000), 9/19/2006, Republican State Cmte of Massachusetts.

Louis John Nigro, Jr., of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

Nominee: Louis John Nigro, Jr.

Post: Ambassador, Republic of Chad.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: Tarja H. Nigro, none.

3. Children and spouses: N/A.

4. Parents: Louis J. Nigro, Sr., deceased; Marie Nigro, none.

5. Grandparents: Teresa Cavola, deceased; Michael Cavola, deceased; John Zulli, deceased; Catherine Zulli, deceased.

6. Brother and spouse: Robert Nigro, none; Anita Nigro, none.

7. Sisters and spouses: N/A.

Paul E. Simons, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

Nominee: Paul Simons.

Post: Santiago, Chile.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, jointly w/spouse, $100.00, 5/14/04, Democratic Nat'l Committee.

2. Spouse: see above.

3. Children and spouses: Andrea Simons, none; Camila Simons, none.

4. Parents: Joseph Simons, deceased; Gertrude Simons, none.

5. Grandparents: Oscar Bundschuh, deceased; Caroline Bundschuh, deceased; Edward Simons, deceased; Genevieve Simons, deceased.

6. Brother and spouse: Joseph Simons, none; Janet Simons, none.

7. Sisters and spouses: Mary Beth Ward, none; Timothy Ward, none.

*Gail Dennise Mathieu, of New Jersey, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Namibia.

Nominee: Gail Dennise Mathieu.

Post: U.S. Ambassador to Namibia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: Erick Mathieu, none.

3. Children and spouses: Yuri K. Mathieu, none; Yasmin Mathieu, none.

4. Parents: Herbert D. Thomas, deceased; Mildred Thomas, deceased.

5. Grandparents: Mary Simmons, deceased; Henry Simmons, deceased; John Thomas, deceased; Emma Israel, deceased.

6. Brother and spouse: Nairobi Sailcat, none; Rose Sailcat, none.

7. Sisters and spouses: N/A.

*Dan Mozena, of Iowa, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Angola.

Nominee: Dan W. Mozena.

Post: Chief of Mission.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: none.

3. Children and spouses: Anne C. Mozena, none; Mark W. Mozena, none.

4. Parents: Kenneth E. Mozena, deceased; Edna C. Mozena, none.

5. Grandparents: Frank Mozena, deceased; Hattie Mozena, deceased; William Gottschalk, deceased; Charlotte Gottschalk deceased.

6. Brothers and spouses: Darryl and Terry Mozena, $250.00, 2003, Charles Grassley for Senate Committee; Jeffery and Janet Mozena, $500.00, 2006, Mike Whalen for Congress; Terry and Angie Mozena, none.

7. Sister and spouse: Kris Ann (Mozena) McNamer, deceased.

*Eunice S. Reddick, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

Nominee: Eunice S. Reddick.

Post: Ambassador to Gabon.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: Marc M. Wall, none.

3. Children and spouses: Sarah Wall, none; Gregory Wall, none.

4. Parents: Ellsworth Reddick, deceased; Carrie Reddick, deceased.

5. Grandparents: Sophie Crawford, deceased; Henry Crawford, deceased.

6. Brothers and spouses: N/A.

7. Sisters and spouses: Helen Luchars, none; Robert Luchars, deceased.

*Daniel V. Speckhard, of Wisconsin, a Career Member of the Senior Executive Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

Nominee: Daniel Vern Speckhard.

Post: Athens.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: Anne Speckhard, none.

3. Children and spouses: Leah Speckhard, none; Jessica Speckhard, none; Daniel T. Speckhard, none.

4. Parents: Thomas T. Speckhard, $35, Fall 2005, Democratic Congressional Campaign Committee; $25, Fall 2006, Democratic Congressional Campaign Committee; $50, 2006, Sen. Feingold; $50, 2004, Congressman David Obey; Carol A. Speckhard, deceased;

5. Grandparents: Walter and Louise Speckhard, deceased; Vern and Lilian Bueror, deceased.

6. Brothers and spouses: Thomas J. Speckhard, none; James W. Speckhard, none.

7. Sisters and spouses: Kathleen Speckhard, deceased.

Thomas F. Stephenson, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Portuguese Republic.

Nominee: Thomas F. Stephenson.____

Post: Ambassador to Portugal.____

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, Donee:

1. Self, 25,000, 5/12/03, RNC 2,000, 6/15/03, Bush-Cheney '04 Inc; 25,000, 1/14/04, Republican Regents; 2,000, 3/7/04, John Thune for U.S. Senate; 2,000, 4/2/04, John Thune for U.S. Senate; 2,000, 5/10/04, Bill Jones for U.S. Senate; 2,000, 6/6/04, Bill Jones for U.S. Senate; 2,000, 9/9/04, Pete Coors for U.S. Senate; 25,000, 9/9/04, 2004 Joint Candidate Committee 1,000 10/6/04, Martinez for Senate; 25,000, 5/5/05, RNC; 4,200, 6/1/05, Talent for U.S. Senate; 4,200, 6/1/05, Santorum 2006; 1,000, 6/1/05, Ensign for Senate; 4,200, 6/1/05, Friends of George Allen; 5,000, 11/17/05, VOLPAC; 2,100, 1/11/06, Dreier for Congress; 5,000, 3/10/06, VOLPAC; 25,000, 5/15/06, RNC; 4,200, 5/30/06, Friend of Conrad Burns; 4,200, 7/11/06, Steele for Maryland Inc; 2,100, 8/17/06, Hastert for Congress; 2,100, 9/6/06, Mark Kennedy '06; 5,000, 9/15/06, Joint Candidate Committee; 2,100, 9/24/06, Corker for Senate; 2,100, 9/24/06, Tom Kean for U.S. Senate; 1,250, 10/2/06, Friends of Mike McGarvick; 1,250, 10/2/06, Mike DeWine for U.S. Senate; 2,500, 2/24/07, VOLPAC; 2,300, 3/6/07, Romney for President; 25,000, 4/2/07, RNC; 2,300, 5/30/07, Coleman for Senate.

Spouse: Barbara U. Stephenson, 25,000, 5/12/2003, RNC; 2,000, 6/15/2003, Bush-Cheney '04; 25,000, 1/14/2004, RNC; 2,000, 3/7/2004, John Thune for U.S. Senate; 2,000, 4/2/2004, John Thune for U.S. Senate; 2,000, 5/10/2004, Bill Jones for U.S. Senate; 2,000, 6/6/2004, Bill Jones for U.S. Senate; 2,000, 9/9/2004, Pete Coors for U.S. Senate; 25,000, 9/9/2004, 2004 Joint Candidate Committee; 25,000, 5/5/2005, RNC; 4,200, 6/1/2005, Talent for Senate; 4,200, 6/1/2005, Santorum 2006, 4,200, 6/1/2005, Friends of George Allen; 5,000, 11/17/2005, VOLPAC; 5,000, 3/10/2006, VOLPAC; 25,000, 5/15/2006, RNC; 4,200, 5/30/2006, Friends of Conrad Burns; 4,200, 7/11/2006, Steele for Maryland Inc.; 2,100, 8/17/2006, Hastert for Congress; 2,100, 9/6/2006, Mark Kennedy '06; 5,000, 9/15/2006, Joint Candidate Committee; 2,100, 9/24/2006, Corker for Senate; 2,100, 9/24/2006, Tom Kean for U.S. Senate; 2,100, 10/2/2006, Friends of Mike McGarvick; 2,100, 10/2/2006, Mike DeWine for U.S. Senate; 2,500, 2/24/2007, VOLPAC; 2,300, 3/6/2007, Romney for President Inc.; 25,000, 4/2/2007, RNC; 2,300, 5/30/2007, Coleman for Senate.

3. Children and spouses: Anne Stephenson Murphy, none; Taylor Murphy, none; Martin Barthmeir, none; Cameron W. Stephenson, none; Tenley Stephenson Pimentel, none; John Pimentel, $1,000, 10/29/03, Bush-Cheney '04; $1,000, 3/11/04, Bush-Cheney '04; $2,300, 3/27/07, Romney for President.

4. Parents: Thomas W. Stephenson, none; Elizabeth F. Stephenson, deceased.

5. Grandparents: Gilbert Stephenson, deceased; Grace Stephenson, deceased; H. Walter Forster, deceased; Sylvia Forster, deceased.

6. Brothers and spouses: N/A.

7. Sisters and spouses: Nancy Nichols, deceased; Susan Gates, none; John Gates, none.

*Vincent Obsitnik, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic.

*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.

Nominee: Vincent Obsitnik

Post: U.S. Ambassador to Slovakia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, 2003—$15000, 3/11/03, RNC—Eagles; $2000, 6/30/03, Bush Cheney 04 Inc.; $1000, 10/23/03, Friends of George Allen—see note below.

2004—$2000, 2/24/04, Natl Republican Senatorial Comm.; $10000, 4/6/04, RNC—T100; $15000, 4/7/04, RNC—T100; $250, 7/13/04, Natl Republican Senatorial Comm.; $50, 7/15/04, John Thune for US Senate; $1000, 8/17/04, Friends of George Allen; $2000, 8/17/04, Friends of George Allen; $250, 9/8/04, Natl Republican Senatorial Comm.; $1000, 12/7/04, Friends of Dick Lugar.

2005—$1000, 3/17/05, Friends of George Allen; $200, 3/29/05, Friends of George Allen; $15000, 8/8/05, RNC–T100; $10000, 8/8/05, RNC–T100. $1000, 12/30/05, Friends of George Allen.

2006—$1000, 2/9/06, Restore America PAC; $500, 6/15/06, Santorum 2006; $15000, 10/3/06, RNC–T100; $10000, 10/4/06, RNC–T100.

2. Spouse: Annemarie Obsitnik, $2000, 6/3/03, Bush Cheney 04 Inc.

3. Children and spouses: Vincent M. Obsitnik, $2000, 12/03, Bush Cheney 04; $ 500, 6/06, Santorum 2006; Suzanna Obsitnik, $2000, 12/03, Bush Cheney 04; Paul E. Obsitnik, $500, 3/00, RNC; $150, 5/02, RNC; $150, 5/04, RNC Mehri A. Mehrabi, none; Stephen A. Obsitnik, none; Suzanne Tager, none; James T. Obsitnik, $500, 10/5/04, Lead 21 (527); $60, 7/7/05, Lead 21 (527); Anne Obsitnik, none;

4. Parents: Michael Obsitnik, deceased; Susan Obsitnik, deceased.

5. Grandparents: Michael and Maria Obsitnik, deceased. Lived in Czechoslovakia; Pavol and Zuzanna Cvercko, deceased. Lived in Czechoslovakia.

6. Brothers and spouses: Michael P. Obsitnik, none; Marilyn Obsitnik, $200, 7/04, RNC; $100, 10/04, RNC; $100 1/05, Inaugural Committee; Thomas F. Obsitnik, none; Mary F. Obsitnik, none.

7. Sisters and spouses: Mary Ann Cizmar, none; Dr. Stephan Cizmar, $25, 1/29/03, RNC; $25, 1/4/05, RNC; $25, 1/6/06, RNC; $30, 12/8/06, RNC.

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 Mrs. CLINTON:

S. 2222. A bill to require the International Trade Commission to report on the specific impact of each free trade agreement in force with respect to the United States on a sector-by-sector basis, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS:

S. 2223. An original bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to promote habitat conservation and restoration, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. OBAMA (for himself and Mr. DURBIN):

S. 2224. A bill to require a licensee to notify the Nuclear Regulatory Commission, and the State and county in which a facility is located, whenever there is an unplanned release of radioactive substances; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN:

S. 2225. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the tariff rate for certain mechanics' work gloves; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 2226. A bill to recognize the Navy UDT-SEAL Museum in Fort Pierce, Florida, as the official national museum of Navy SEALS and their predecessors; to the Committee on Armed Services.

By Mr. OBAMA (for himself and Mr. REED):

S. 2227. A bill to provide grants to States to ensure that all students in the middle grades are taught an academically rigorous curriculum with effective supports so that students complete the middle grades prepared for success in high school and postsecondary endeavors, to improve State and district policies and programs relating to the academic achievement of students in the middle grades, to develop and implement effective middle school models for struggling students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (for himself, Mr. LAUTENBERG, Mr. MENENDEZ, Mr. CARDIN, Mr. WHITEHOUSE, Mr. REED, Mr. HATCH, and Ms. COLLINS):

S. 2228. A bill to extend and improve agricultural programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KERRY (for himself and Mr. KENNEDY):

S. Res. 355. A resolution expressing the sense of the Senate regarding Boston's celebration of the Little Rock Nine on the 50th anniversary of their courageous and selfless stand in the face of hatred, violence, and intolerance; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. WEBB, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 22, a bill to amend title 38, United States Code, to establish a program of educational assistance for members of the Armed Forces who serve in the Armed Forces after September 11, 2001, and for other purposes.

S. 38

At the request of Mr. DOMENICI, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 38, a bill to require the Secretary of Veterans Affairs to establish a program for the provision of readjustment and mental health services to veterans who served in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 211

At the request of Mrs. DOLE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 388

At the request of Mr. THUNE, the name of the Senator from Virginia (Mr.

WEBB) was added as a cosponsor of S. 388, a bill to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State.

S. 469

At the request of Mr. BAUCUS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 469, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 644

At the request of Mrs. LINCOLN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 644, a bill to amend title 38, United States Code, to recodify as part of that title certain educational assistance programs for members of the reserve components of the Armed Forces, to improve such programs, and for other purposes.

S. 759

At the request of Mr. WEBB, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 759, a bill to prohibit the use of funds for military operations in Iran.

S. 819

At the request of Mr. DORGAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 819, a bill to amend the Internal Revenue Code of 1986 to expand tax-free distributions from individual retirement accounts for charitable purposes.

S. 1012

At the request of Ms. LANDRIEU, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1012, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 1359

At the request of Mrs. MURRAY, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1359, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 1512

At the request of Mr. COCHRAN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1512, a bill to amend part E of title IV of the Social Security Act to expand Federal eligibility for children in foster care who have attained age 18.

S. 1737

At the request of Mr. SESSIONS, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1737, a bill to amend title XVIII of the Social Security Act to provide for a waiver of the 35-mile drive requirement for designations of critical access hospitals.

S. 1809

At the request of Mr. THUNE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1809, a bill to amend the Internal Revenue Code of 1986 to provide that distributions from an individual retirement plan, a section 401(k) plan, a section 403(b) contract, or a section 457 plan shall not be includible in gross income to the extent used to pay long-term care insurance premiums.

S. 1818

At the request of Mr. OBAMA, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1818, a bill to amend the Toxic Substances Control Act to phase out the use of mercury in the manufacture of chlorine and caustic soda, and for other purposes.

S. 1852

At the request of Mr. INOUYE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1852, a bill to designate the Friday after Thanksgiving of each year as ''Native American Heritage Day'' in honor of the achievements and contributions of Native Americans to the United States.

S. 1911

At the request of Mrs. CLINTON, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 1911, a bill to amend the Safe Drinking Water Act to protect the health of susceptible populations, including pregnant women, infants, and children, by requiring a health advisory, drinking water standard, and reference concentration for trichloroethylene vapor intrusion, and for other purposes.

S. 2075

At the request of Mr. BROWNBACK, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 2075, a bill to ensure that women seeking an abortion receive an ultrasound and the opportunity to review the ultrasound before giving informed consent to receive an abortion.

S. 2139

At the request of Ms. KLOBUCHAR, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2139, a bill to amend title 38, United States Code, provide educational assistance under the Montgomery GI Bill for members of the National Guard and Reserve who serve extended period of continuous active duty that include a prolonged period of service in certain theaters of operation, and for other purposes.

S. 2166

At the request of Mr. CASEY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2166, a bill to provide for greater responsibility in lending and expanded cancellation of debts owed to the United States and the international financial institutions by low-income countries, and for other purposes.

S. CON. RES. 48

At the request of Mr. JOHNSON, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. Con. Res. 48, a concurrent resolution expressing the sense of Congress regarding high level visits to the United States by democratically-elected officials of Taiwan.

S. RES. 118

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 118, a resolution urging the Government of Canada to end the commercial seal hunt.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 355—EXPRESSING THE SENSE OF THE SENATE REGARDING BOSTON'S CELEBRATION OF THE LITTLE ROCK NINE ON THE 50TH ANNIVERSARY OF THEIR COURAGEOUS AND SELFLESS STAND IN THE FACE OF HATRED, VIOLENCE, AND INTOLERANCE

Mr. KERRY (for himself and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 355

Whereas, on October 24, 2007, the legacy of the Little Rock Nine will be celebrated in Boston's Faneuil Hall;

Whereas, in Faneuil Hall, abolitionists of the 19th Century publicly attacked the evils of slavery in the United States;

Whereas Massachusetts was the center of the United States abolitionist movement and a national leader in providing public education to all students, regardless of race or ethnicity;

Whereas abolitionist leader and Newburyport, Massachusetts native William Lloyd Garrison fueled the abolitionist movement through his powerful writing in his newspaper, ''The Liberator'', and fiery public oratory;

Whereas the ''Father of American public education'', Franklin, Massachusetts native Horace Mann, advocated for the end of slavery and improved access for all students to quality public education;

Whereas, in 1832, Garrison and other abolitionists gathered at the African Meeting House on Boston's Beacon Hill and founded the New England Anti-Slavery Society;

Whereas, in 1855, the Massachusetts legislature outlawed segregation in the State's public schools;

Whereas, on May 17, 1954, the United States Supreme Court issued its ruling in the case of Brown v. Board of Education of Topeka and declared that segregated education was unconstitutional;

Whereas many elementary and high schools and colleges and universities throughout the United States continued to enforce a system of educational inequality in

which students of color were denied access to their right to a quality public education;

Whereas, 3 years after the ruling in Brown v. Board of Education of Topeka, the school board of Little Rock, Arkansas, announced it would implement a gradual integration of its school system beginning in September 1957;

Whereas the Little Rock chapter of the National Association for the Advancement of Colored People selected 9 outstanding African-American students to attend previously all-White Little Rock Central High School;

Whereas, on September 4, 1957, those 9 African-American students, Minnijean Brown, Elizabeth Eckford, Ernest Green, Thelma Mothershed, Melba Pattillo, Gloria Ray, Terrence Roberts, Jefferson Thomas, and Carlotta Walls attempted to enter Central High School;

Whereas, on September 4, 1957, Arkansas Governor Orval Faubus mobilized the Arkansas National Guard and ordered the armed soldiers to block the 9 African-American students from entering Central High School;

Whereas, after a Federal judge ordered Governor Faubus to remove the National Guard, police officers and citizens of Little Rock took up positions at the entrances to Central High School and continued to block the African-American students from entering;

Whereas, on September 23, 1957, after learning that the 9 African-American students had successfully entered the school, a segregationist mob gathered at Central High School and the African-American students had to be escorted from the school for fear that they would be killed;

Whereas, on September 23, 1957, Little Rock Mayor Woodrow Mann, in a telegram to President Dwight D. Eisenhower, appealed to the President to send Federal troops to protect the students and ensure the integration of Central High School;

Whereas on September 24, 1957, President Eisenhower ordered the 101st Airborne Division of the United States Army to Little Rock and federalized the entire Arkansas National Guard;

Whereas, on September 25, 1957, Minnijean Brown, Elizabeth Eckford, Ernest Green, Thelma Mothershed, Melba Pattillo, Gloria Ray, Terrence Roberts, Jefferson Thomas, and Carlotta Walls walked through the front doors of Central High School, as thousands of White students had done before them;

Whereas despite the constant presence of United States soldiers, the 9 African-American students were physically and verbally harassed throughout the school year;

Whereas Minnijean Brown, after enduring months of physical and verbal harassment and assaults, was expelled from Central High School for a verbal retort aimed at one of her antagonists;

Whereas, at the end of the 1957–1958 school year, Ernest Green became the first African-American graduate in the history of Central High School;

Whereas Minnijean Brown Trickery became a prominent social activist and works as a writer and social worker in Ontario, Canada;

Whereas Ernest Green attended Michigan State University, later served as Assistant Secretary of Housing and Urban Affairs under President Jimmy Carter, and currently is a managing partner and vice president of Lehman Brothers;

Whereas Elizabeth Eckford had a successful career in the same United States Army that protected her at Central High School, raised 2 sons in Little Rock, and now works as a social worker;

Whereas Thelma Mothershed-Wair returned to school as a teacher and now volunteers in a program for abused women;

Whereas Melba Pattillo Beals is an author and journalist for People Magazine and NBC Universal;

Whereas Gloria Ray Karlmark graduated from Illinois Technical College and is a successful computer science writer whose work has been published in 39 countries;

Whereas Terrence Roberts is now Dr. Terrence Roberts and teaches at the University of California, Los Angeles (UCLA) and Antioch College and also works as a clinical psychologist;

Whereas Jefferson Thomas graduated from Central High School in 1960 and works for the Department of Defense as an accountant;

Whereas Carlotta Walls Lanier graduated from Central High School in 1959, attended Michigan State University, and has found success in the field of real estate;

Whereas the Little Rock Nine, in brave defiance of segregation, proved that with access to educational opportunity all students are capable of greatness, regardless of race or ethnicity;

Whereas the courage of the Little Rock Nine, broadcast for the entire world to see, inspired other students of all colors to take a stand on behalf of tolerance, integration, and equality;

Whereas the courage of the Little Rock Nine demonstrated to segregationists throughout the United States that hatred and intolerance were no match for the bravery of 9 high school students; and

Whereas, 50 years after the integration of Central High School, all Americans must remain vigilant in order to ensure that every child has access to quality public education, regardless of race or ethnicity: Now, therefore, be it

Resolved, That the Senate—

(1) joins with the people of Massachusetts in honoring the courage of the Little Rock Nine;

(2) pledges to advance the legacy of the Little Rock Nine;

(3) endeavors to ensure that no American is denied access to education because of race or ethnicity; and

(4) encourages the people of the United States to remember—

(A) the courage of the Little Rock Nine; and

(B) the vital importance of equal opportunity in education.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3451. Mr. LAUTENBERG proposed an amendment to the bill S. 294, to reauthorize Amtrak, and for other purposes.

SA 3452. Mr. SUNUNU proposed an amendment to the bill S. 294, supra.

SA 3453. Mr. SUNUNU proposed an amendment to the bill S. 294, supra.

SA 3454. Mr. LAUTENBERG (for Mr. CARPER) proposed an amendment to amendment SA 3452 proposed by Mr. SUNUNU to the bill S. 294, supra.

TEXT OF AMENDMENTS

SA 3451. Mr. LAUTENBERG proposed an amendment to the bill S. 294, to reauthorize Amtrak, and for other purposes; as follows:

In the table of contents, strike the items relating to title IV.

On page 22, line 2, insert ''relevant'' after ''each''.

On page 22, line 4, insert ''single, Nationwide'' after ''implement a''.

On page 28, line 12, insert ''As part of its investigation, the Board has authority to review the accuracy of the train performance data.'' after ''operator.''.

On page 29, line 15, insert ''order the host rail carrier to'' after ''appropriate,''.

On page 29, between lines 23 and 24, insert the following:

(b) FEES.—The Surface Transportation Board may establish and collect filing fees from any entity that files a complaint under section 24308(f)(1) of title 49, United States Code, or otherwise requests or requires the Board's services pursuant to this Act. The Board shall establish such fees at levels that will fully or partially, as the Board determines to be appropriate, offset the costs of adjudicating complaints under that section and other requests or requirements for Board action under this Act. The Board may waive any fee established under this subsection for any governmental entity as determined appropriate by the Board.

(c) AUTHORIZATION OF ADDITIONAL STAFF.—The Surface Transportation Board may increase the number of Board employees by up to 15 for the 5 fiscal year period beginning with fiscal year 2008 to carry out its responsibilities under section 24308 of title 49, United States Code, and this Act.

On page 29, line 24, strike ''(b)'' and insert ''(d)''.

On page 51, between lines 4 and 5, insert the following:

(d) ACELA SERVICE STUDY.—

(1) IN GENERAL.—Amtrak shall conduct a conduct a study to determine the infrastructure and equipment improvements necessary to provide regular Acela service—

(A) between Washington, D.C. and New York City in 2 hours and 30 minutes; and

(B) between New York City and Boston in 3 hours and 15 minutes.

(2) ISSUES.—The study conducted under paragraph (1) shall include—

(A) an estimated time frame for achieving the trip time described in paragraph (1);

(B) an analysis of any significant obstacles that would hinder such an achievement; and

(C) a detailed description and cost estimate of the specific infrastructure and equipment improvements necessary for such an achievement.

(3) SECONDARY STUDY.—Amtrak shall provide an initial assessment of the infrastructure and equipment improvements, including an order of magnitude cost estimate of such improvements, that would be necessary to provide regular Acela service—

(A) between Washington, D.C. and New York City in 2 hours and 15 minutes; and

(B) between New York City and Boston in 3 hours.

(4) REPORT.—Not later than February 1, 2008, Amtrak shall submit a written report containing the results of the studies required under this subsection to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Transportation and Infrastructure of the House of Representatives;

(D) the Committee on Appropriations of the House of Representatives; and

(E) the Federal Railroad Administration.

On page 57, strike lines 3 through 11.

On page 57, line 12, strike ''(d)'' and insert ''(c)''.

On page 73, line 1, insert ''2003,'' after ''years''.

On page 81, line 25, strike ''and''.

On page 82, line 2, strike ''seq.).'' and insert ''seq.); and''.

On page 82, between lines 2 and 3, insert the following:

''(3) the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

On page 144, beginning with line 2, strike through the end of the bill.

SA 3452. Mr. SUNUNU proposed an amendment to the bill S. 294, to reauthorize Amtrak, and for other purposes; as follows:

At the end of the bill, add the following:

SECTION _____1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Freedom Act Amendments Act of 2007''.

SEC. _____2. PERMANENT BAN OF INTERNET ACCESS TAXES.

(a) IN GENERAL.—Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking ''during the period'' through ''2007''.

(b) GRAND FATHERING OF STATES THAT TAX INTERNET ACCESS.—Section 1104(a)(2) of such Act is amended to read as follows:

''(2) STATE TELECOMMUNICATIONS SERVICE TAX.—

''(A) DATE FOR TERMINATION.—This subsection shall not apply after November 1, 2006, with respect to a State telecommunications service tax described in subparagraph (B).

''(B) DESCRIPTION OF TAX.—A State telecommunications service tax referred to in subparagraph (A) is a State tax—

''(i) enacted by State law on or after October 1, 1991, and imposing a tax on telecommunications service; and

''(ii) applied to Internet access through administrative code or regulation issued on or after December 1, 2002.''.

SEC. _____3. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

Section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

''(c) APPLICATION OF DEFINITION.—

''(1) IN GENERAL.—Effective as of November 1, 2003—

''(A) for purposes of subsection (a), the term 'Internet access' shall have the meaning given such term by section 1104(5) of this Act, as enacted on October 21, 1998; and

''(B) for purposes of subsection (b), the term 'Internet access' shall have the meaning given such term by section 1104(5) of this Act as enacted on October 21, 1998, and amended by section 2(c) of the Internet Tax Nondiscrimination Act (Public Law 108–435).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply until November 1, 2007, to a tax on Internet access that is—

''(A) generally imposed and actually enforced on telecommunications service purchased, used, or sold by a provider of Internet access, but only if the appropriate administrative agency of a State or political subdivision thereof issued a public ruling prior to July 1, 2007, that applied such tax to such service in a manner that is inconsistent with paragraph (1); or

''(B) the subject of litigation instituted in a judicial court of competent jurisdiction prior to July 1, 2007, in which a State or political subdivision is seeking to enforce, in a manner that is inconsistent with paragraph (1), such tax on telecommunications service purchased, used, or sold by a provider of Internet access.

''(3) NO INFERENCE.—No inference of legislative construction shall be drawn from this subsection or the amendments to section 1105(5) made by the Internet Tax Freedom Act Amendments Act of 2007 for any period prior to November 1, 2007, with respect to any tax subject to the exceptions described in subparagraphs (A) and (B) of paragraph (2).''.

SEC. _____4. DEFINITIONS.

Section 1105 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) in paragraph (1) by striking ''services'',

(2) by amending paragraph (5) to read as follows:

''(5) INTERNET ACCESS.—The term 'Internet access'—

''(A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

''(B) includes the purchase, use or sale of telecommunications by a provider of a service described in subparagraph (A) to the extent such telecommunications are purchased, used or sold—

''(i) to provide such service; or

''(ii) to otherwise enable users to access content, information or other services offered over the Internet;

''(C) includes services that are incidental to the provision of the service described in subparagraph (A) when furnished to users as part of such service, such as a home page, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity; and

''(D) does not include voice, audio or video programming, or other products and services (except services described in subparagraph (A), (B), or (C)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated with the charge for services described in subparagraph (A), (B), or (C).'',

(3) by amending paragraph (9) to read as follows:

''(9) TELECOMMUNICATIONS.—The term 'telecommunications' means 'telecommunications' as such term is defined in section 3(43) of the Communications Act of 1934 (47 U.S.C. 153(43)) and 'telecommunications service' as such term is defined in section 3(46) of such Act (47 U.S.C. 153(46)), and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986 (26 U.S.C. 4251)).'', and

(4) in paragraph (10) by adding at the end the following:

''(C) SPECIFIC EXCEPTION.—

''(i) SPECIFIED TAXES.—Effective November 1, 2007, the term 'tax on Internet access' also does not include a State tax expressly levied on commercial activity, modified gross receipts, taxable margin, or gross income of the business, by a State law specifically using one of the foregoing terms, that—

''(I) was enacted after June 20, 2005, and before November 1, 2007 (or, in the case of a State business and occupation tax, was enacted after January 1, 1932, and before January 1, 1936);

''(II) replaced, in whole or in part, a modified value-added tax or a tax levied upon or measured by net income, capital stock, or net worth (or, is a State business and occupation tax that was enacted after January 1, 1932 and before January 1, 1936);

''(III) is imposed on a broad range of business activity; and

''(IV) is not discriminatory in its application to providers of communication services, Internet access, or telecommunications.

''(ii) MODIFICATIONS.—Nothing in this subparagraph shall be construed as a limitation on a State's ability to make modifications to a tax covered by clause (i) of this subparagraph after November 1, 2007, as long as the modifications do not substantially narrow the range of business activities on which the tax is imposed or otherwise disqualify the tax under clause (i).

''(iii) NO INFERENCE.—No inference of legislative construction shall be drawn from this subparagraph regarding the application of subparagraph (A) or (B) to any tax described in clause (i) for periods prior to November 1, 2007.''.

SEC. _____5. CONFORMING AMENDMENTS.

(a) ACCOUNTING RULE.—Section 1106 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by striking ''telecommunications services'' each place it appears and inserting ''telecommunications'', and

(2) in subsection (b)(2)—

(A) in the heading by striking ''SERVICES'',

(B) by striking ''such services'' and inserting ''such telecommunications'', and

(C) by inserting before the period at the end the following: ''or to otherwise enable users to access content, information or other services offered over the Internet''.

(b) VOICE SERVICES.—The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking section 1108.

SEC. _____6. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on November 1, 2007, and shall apply with respect to taxes in effect as of such date or thereafter enacted, except as provided in section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note).

SA 3453. Mr. SUNUNU proposed an amendment to the bill S. 294, to reauthorize Amtrak, and for other purposes; as follows:

On page 32, before line 21, insert the following:

(c) LIMIT ON PASSENGER SUBSIDIES.—

(1) IN GENERAL.—The Secretary of Transportation shall prohibit any Federal funds to be used for the operation of an Amtrak train route that has a per passenger subsidy, as determined by the Inspector General under paragraph (2), of not less than—

(A) $200 during the first fiscal year beginning after the date of the enactment of this Act;

(B) $175 during the second fiscal year beginning after the date of the enactment of this Act;

(C) $150 during the third fiscal year beginning after the date of the enactment of this Act;

(D) $125 during the fourth fiscal year beginning after the date of the enactment of this Act; and

(E) $100 during any fiscal year beginning after the time period described in subparagraph (D).

(2) DETERMINATION OF SUBSIDY LEVEL.—The Inspector General of the Department of Transportation, using data provided by Amtrak, shall determine the difference between the average fully allocated operating cost per passenger and the average ticket price collected for each train route operated by Amtrak during the most recent 12-month period for which data is available.

(3) REPORT.—

(A) IN GENERAL.—Not later than 6 months before the end of each fiscal year, and every 6 months thereafter, the Inspector General shall publish a report that—

(i) lists the subsidy levels determined under paragraph (2); and

(ii) includes a statement that Amtrak will terminate any train route that has a per passenger subsidy in excess of the limits set forth in paragraph (1).

(B) DISTRIBUTION.—The Inspector General shall display the report published under subparagraph (A) on the Internet and submit a copy of such report to—

(i) the President of Amtrak;

(ii) the Secretary of Transportation;

(iii) the Committee on Commerce, Science, and Transportation of the Senate; and

(iv) the Committee on Transportation and Infrastructure of the House of Representatives.

SA 3454. Mr. LAUTENBERG (for Mr. CARPER) proposed an amendment to amendment SA 3452 proposed by Mr. SUNUNU to the bill S. 294, to reauthorize Amtrak, and for other purposes; as follows:

1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Freedom Act Amendments Act of 2007''.

SEC. 2. MORATORIUM.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) in section 1101(a) by striking ''2007'' and inserting ''2011'', and

(2) in section 1104(a)(2)(A) by striking ''2007'' and inserting ''2011''.

SEC. 3. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

Section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

''(c) APPLICATION OF DEFINITION.—

''(1) IN GENERAL.—Effective as of November 1, 2003—

''(A) for purposes of subsection (a), the term 'Internet access' shall have the meaning given such term by section 1104(5) of this Act, as enacted on October 21, 1998; and

''(B) for purposes of subsection (b), the term 'Internet access' shall have the meaning given such term by section 1104(5) of this Act as enacted on October 21, 1998, and amended by section 2(c) of the Internet Tax Nondiscrimination Act (Public Law 108–435).

''(2) EXCEPTIONS.—Paragraph (1) shall not apply until November 1, 2007, to a tax on Internet access that is—

''(A) generally imposed and actually enforced on telecommunications service purchased, used, or sold by a provider of Internet access, but only if the appropriate administrative agency of a State or political subdivision thereof issued a public ruling prior to July 1, 2007, that applied such tax to such service in a manner that is inconsistent with paragraph (1); or

''(B) the subject of litigation instituted in a judicial court of competent jurisdiction prior to July 1, 2007, in which a State or political subdivision is seeking to enforce, in a manner that is inconsistent with paragraph (1), such tax on telecommunications service purchased, used, or sold by a provider of Internet access.

''(3) NO INFERENCE.—No inference of legislative construction shall be drawn from this subsection or the amendments to section 1105(5) made by the Internet Tax Freedom Act Amendments Act of 2007 for any period prior to November 1, 2007, with respect to any tax subject to the exceptions described in subparagraphs (A) and (B) of paragraph (2).''.

SEC. 4. DEFINITIONS.

Section 1105 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) in paragraph (1) by striking ''services'',

(2) by amending paragraph (5) to read as follows:

''(5) INTERNET ACCESS.—The term 'Internet access'—

''(A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

''(B) includes the purchase, use or sale of telecommunications by a provider of a service described in subparagraph (A) to the extent such telecommunications are purchased, used or sold—

''(i) to provide such service; or

''(ii) to otherwise enable users to access content, information or other services offered over the Internet;

''(C) includes services that are incidental to the provision of the service described in subparagraph (A) when furnished to users as part of such service, such as a home page, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity; and

''(D) does not include voice, audio or video programming, or other products and services (except services described in subparagraph (A), (B), or (C)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated, with the charge for services described in subparagraph (A), (B), or (C).'',

(3) by amending paragraph (9) to read as follows:

''(9) TELECOMMUNICATIONS.—The term 'telecommunications' means 'telecommunications' as such term is defined in section 3(43) of the Communications Act of 1934 (47 U.S.C. 153(43)) and 'telecommunications service' as such term is defined in section 3(46) of such Act (47 U.S.C. 153(46)), and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986 (26 U.S.C. 4251)),'', and

(4) in paragraph (10) by adding at the end the following:

''(C) SPECIFIC EXCEPTION.—

''(i) SPECIFIED TAXES.—Effective November 1, 2007, the term 'tax on Internet access' also does not include a State tax expressly levied on commercial activity, modified gross receipts, taxable margin, or gross income of the business, by a State law specifically using one of the foregoing terms, that—

''(I) was enacted after June 20, 2005, and before November 1, 2007 (or, in the case of a State business and occupation tax, was enacted after January 1, 1932, and before January 1, 1936);

''(II) replaced, in whole or in part, a modified value-added tax or a tax levied upon or measured by net income, capital stock, or net worth (or, is a State business and occupation tax that was enacted after January 1, 1932 and before January 1, 1936);

''(III) is imposed on a broad range of business activity; and

''(IV) is not discriminatory in its application to providers of communication services, Internet access, or telecommunications.

''(ii) MODIFICATIONS.—Nothing in this subparagraph shall be construed as a limitation on a State's ability to make modifications to a tax covered by clause (i) of this subparagraph after November 1, 2007, as long as the modifications do not substantially narrow the range of business activities on which the tax is imposed or otherwise disqualify the tax under clause (i).

''(iii) NO INFERENCE.—No inference of legislative construction shall be drawn from this subparagraph regarding the application of subparagraph (A) or (B) to any tax described in clause (i) for periods prior to November 1, 2007.''.

SEC. 5. CONFORMING AMENDMENTS.

(a) ACCOUNTING RULE.—Section 1106 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by striking ''telecommunications services'' each place it appears and inserting ''telecommunications'', and

(2) in subsection (b)(2)—

(A) in the heading by striking ''SERVICES'',

(B) by striking ''such services'' and inserting ''such telecommunications'', and

(C) by inserting before the period at the end the following: ''or to otherwise enable users to access content, information or other services offered over the Internet''.

(b) VOICE SERVICES.—The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking section 1108.

SEC. 6. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on November 1, 2007, and shall apply with respect to taxes in effect as of such date or thereafter enacted, except as provided in section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to meet in executive session during the session of the Senate on Wednesday, October 24, 2007, at 10 a.m. in SR–328A. The committee will be considering the 2007 farm bill.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 24, 2007, at 2 p.m., in order to conduct a hearing entitled ''International Accounting Standards: Opportunities, Challenges, and Global Convergence Issues.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, Transportation be authorized to hold a hearing during the session of the Senate on Wednesday, October 24, 2007, at 10 a.m., in room 253 of the Russell Senate Office Building.

At this hearing, committee members will assess the state of innovation and competition in the radio market.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. 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 24, 2007, at 9:30 a.m., in order to hold a hearing on the Great Lakes region of Africa.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. 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 24, 2007, at 1:45 p.m., in order to hold a business meeting.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, October 24, 2007, at 10 a.m., in order

to conduct a hearing entitled ''Watching the Watch List: Building an Effective Terrorist Screening System.''

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet, during the session of the Senate, in order to conduct a hearing entitled ''Nominations'' on Wednesday, October 24, 2007. The meeting will commence at 10 a.m. in room 226 of the Dirksen Senate Office Building.

Witness list

Panel I: Ronald Jay Tenpas to be Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice.

Panel II: Joseph N. Laplante to be United States District Judge for the District of New Hampshire; Reed Charles O'Connor to be United States District Judge for the Northern District of Texas, Dallas Division; Thomas D. Schroeder to be United States District Judge for the Middle District of North Carolina; Amul R. Thapar to be United States District Judge for the Eastern District of Kentucky.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet, during the session of the Senate, in order to conduct a hearing entitled ''The Role of Federally-Funded University Research in the Patent System'' on Wednesday, October 24, 2007. The meeting will commence at 1:30 p.m. in room 226 of the Dirksen Senate Office Building.

Witness list

Arti K. Rai, Professor of Law, Duke University School of Law, Durham, NC; Elizabeth Hoffman, Executive Vice President and Provost, Iowa State University, Ames, IA; Robert Weissman, Director, Essential Action, Washington, DC; Dr. Charles Louis, Vice Chancellor for Research, University of California, Riverside, Riverside, CA.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent for the Committee on Veterans' Affairs to be authorized to meet during the session of the Senate on Wednesday, October 24, 2007, in order to conduct a hearing on pending legislation. The committee will meet in room 562 of the Dirksen Senate Office Building, at 9:30 a.m.

THE PRESIDING OFFICER. without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Wednesday, October 24, 2007, from 10:30 a.m.–12:30 p.m. in room 628 of the Dirkson Senate Office Building for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON PRIVATE SECTOR AND CONSUMER SOLUTIONS TO GLOBAL WARMING AND WILDLIFE PROTECTION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, Subcommittee on Private Sector and Consumer Solutions to Global Warming and Wildlife Protection, be authorized to meet during the session of the Senate on Wednesday, October 24, 2007, at 2:30 p.m. in room 406 of the Dirksen Senate Office Building in order to hold a hearing entitled, ''A hearing to examine America's Climate Security Act of 2007.

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

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS ACT, 2008

On Tuesday, October 23, 2007, the Senate passed H.R. 3043, as amended, as follows:

H.R. 3043

Resolved, That the bill from the House of Representatives (H.R. 3043) entitled ''An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2008, and for other purposes, namely:

TITLE I

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISSION)

For necessary expenses of the Workforce Investment Act of 1998 (WIA), the Denali Commission Act of 1998, and the Women in Apprenticeship and Non-Traditional Occupations Act of 1992, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the WIA; $3,587,138,000, plus reimbursements, is available. Of the amounts provided:

(1) for grants to States for adult employment and training activities, youth activities, and dislocated worker employment and training activities, $2,994,510,000 as follows:

(A) $864,199,000 for adult employment and training activities, of which $152,199,000 shall be available for the period July 1, 2008 to June 30, 2009, and of which $712,000,000 shall be available for the period October 1, 2008 through June 30, 2009;

(B) $940,500,000 for youth activities, which shall be available for the period April 1, 2008 through June 30, 2009; and

(C) $1,189,811,000 for dislocated worker employment and training activities, of which $341,811,000 shall be available for the period July 1, 2008 through June 30, 2009, and of which $848,000,000 shall be available for the period October 1, 2008 through June 30, 2009:

Provided, That notwithstanding the transfer limitation under section 133(b)(4) of the WIA, up to 30 percent of such funds may be transferred by a local board if approved by the Governor:

(2) for federally administered programs, $481,540,000 as follows:

(A) $282,092,000 for the dislocated workers assistance national reserve, of which $3,700,000 shall be available on October 1, 2007, of which $66,392,000 shall be available for the period July 1, 2008 through June 30, 2009, and of which $212,000,000 shall be available for the period October 1, 2008 through June 30, 2009: Provided, That up to $150,000,000 may be made available for Community-Based Job Training Grants from funds reserved under section 132(a)(2)(A) of the WIA and shall be used to carry out such grants under section 171(d) of such Act, except that the 10 percent limitation otherwise applicable to the amount of funds that may be used to carry out section 171(d) shall not be applicable to funds used for Community-Based Job Training grants: Provided further, That funds provided to carry out section 132(a)(2)(A) of the WIA may be used to provide assistance to a State for State-wide or local use in order to address cases where there have been worker dislocations across multiple sectors or across multiple local areas and such workers remain dislocated; coordinate the State workforce development plan with emerging economic development needs; and train such eligible dislocated workers: Provided further, That funds provided to carry out section 171(d) of the WIA may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: Provided further, That $1,500,000 shall be for a non-competitive grant to the AFL–CIO Working for America Institute, which shall be awarded not later than 30 days after the date of enactment of this Act: Provided further, That $2,200,000 shall be for a non-competitive grant to the AFL–CIO Appalachian Council, Incorporated, for Job Corps career transition services, which shall be awarded not later than 30 days after the date of enactment of this Act;

(B) $53,696,000 for Native American programs, which shall be available for the period July 1, 2008 through June 30, 2009;

(C) $79,752,000 for migrant and seasonal farmworkers, including $74,302,000 for formula grants, $4,950,000 for migrant and seasonal housing (of which not less than 70 percent shall be for permanent housing), and $500,000 for other discretionary purposes, which shall be available for the period July 1, 2008 through June 30, 2009: Provided, That, notwithstanding any other provision of law or related regulation, the Department shall take no action limiting the number or proportion of eligible participants receiving related assistance services or discouraging grantees from providing such services;

(D) $1,000,000 for carrying out the Women in Apprenticeship and Nontraditional Occupations Act, which shall be available for the period July 1, 2008 through June 30, 2009; and

(E) $65,000,000 for YouthBuild activities as described in section 173A of the WIA, which shall be available for the period April 1, 2008 through June 30, 2009;

(3) for national activities, $111,088,000, which shall be available for the period July 1, 2008 through July 30, 2009 as follows:

(A) $30,650,000 for Pilots, Demonstrations, and Research, of which $27,650,000 shall be available for noncompetitive grants, with the terms, conditions and amounts specified in the committee report of the Senate accompanying this Act: Provided, That funding provided to carry out projects under section 171 of the WIA that are identified in the committee report accompanying this Act, shall not be subject to the requirements of section 171(b)(2)(B) and 171(c)(4)(D) of the

WIA, the joint funding requirements of sections 171(b)(2)(A) and 171(c)(4)(A) of the WIA, or any time limit requirements of sections 171(b)(2)(C) and 171(c)(4)(B) of the WIA;

(B) $13,642,000 for ex-offender activities, under the authority of section 171 of the Act, notwithstanding the requirements of sections 171(b)(2)(B) or 171(c)(4)(D);

(C) $4,921,000 for Evaluation under section 172 of the WIA; and

(D) $6,875,000 for the Denali Commission, which shall be available for the period July 1, 2008 through June 30, 2009.

Of the amounts made available under this heading in Public Law 107–116 to carry out the activities of the National Skills Standards Board, $44,063 are hereby rescinded.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title V of the Older Americans Act of 1965, as amended, $483,611,000, which shall be available for the period July 1, 2008 through June 30, 2009.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during fiscal year 2008 of trade adjustment benefit payments and allowances under part I of subchapter B of chapter II of the Trade Act of 1974 and section 246 of that Act; and for training, allowances for job search and relocation, and related State administrative expenses under part II of subchapter B of chapter 2, title II of the Trade Act of 1974 (including the benefits and services described under sections 123(c)(2) and 151(b) and (c) of the Trade Adjustment Assistance Reform Act of 2002, Public Law 107–210), $888,700,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15, 2008.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, $98,409,000, together with not to exceed $3,248,223,000 which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund (''the Trust Fund''), of which:

(1) $2,510,723,000 from the Trust Fund is for grants to States for the administration of State unemployment insurance laws as authorized under title III of the Social Security Act (including $10,000,000 to conduct in-person reemployment and eligibility assessments in one-stop career centers of claimants of unemployment insurance), the administration of unemployment insurance for Federal employees and for ex-service members as authorized under sections 8501–8523 of title 5, United States Code, and the administration of trade readjustment allowances and alternative trade adjustment assistance under the Trade Act of 1974, and shall be available for obligation by the States through December 31, 2008, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2010, and funds used for unemployment insurance workloads experienced by the States through September 30, 2008 shall be available for Federal obligation through December 31, 2008;

(2) $10,500,000 from the Trust Fund is for national activities necessary to support the administration of the Federal-State unemployment insurance system;

(3) $693,000,000 from the Trust Fund, together with $22,883,000 from the General Fund of the Treasury, is for grants to States in accordance with section 6 of the Wagner-Peyser Act, and shall be available for Federal obligation for the period July 1, 2008 through June 30, 2009;

(4) $34,000,000 from the Trust Fund is for national activities of the Employment Service, including administration of the work opportunity tax credit under section 51 of the Internal Revenue Code of 1986, the administration of activities, including foreign labor certifications, under the Immigration and Nationality Act, and the provision of technical assistance and staff training under the Wagner-Peyser Act, including not to exceed $1,228,000 that may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980;

(5) $55,985,000 from the General Fund is to provide workforce information, national electronic tools, and one-stop system building under the Wagner-Peyser Act and shall be available for Federal obligation for the period July 1, 2008 through June 30, 2009; and

(6) $19,541,000 is to provide for work incentive grants to the States and shall be available for the period July 1, 2008 through June 30, 2009:

Provided, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 2008 is projected by the Department of Labor to exceed 2,786,000, an additional $28,600,000 from the Trust Fund shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) to carry out title III of the Social Security Act: Provided further, That funds appropriated in this Act that are allotted to a State to carry out activities under title III of the Social Security Act may be used by such State to assist other States in carrying out activities under such title III if the other States include areas that have suffered a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act: Provided further, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance or immigration programs, may be obligated in contracts, grants, or agreements with non-State entities: Provided further, That funds appropriated under this Act for activities authorized under title III of the Social Security Act and the Wagner-Peyser Act may be used by States to fund integrated Unemployment Insurance and Employment Service automation efforts, notwithstanding cost allocation principles prescribed under the Office of Management and Budget Circular A–87.

In addition, $40,000,000 from the Employment Security Administration Account of the Unemployment Trust Fund shall be available to conduct in-person reemployment and eligibility assessments in one-stop career centers of claimants of unemployment insurance: Provided, That not later than 180 days following the end of the current fiscal year, the Secretary shall submit an interim report to the Congress that includes available information on expenditures, number of individuals assessed, and outcomes from the assessments: Provided further, That not later than 18 months following the end of the fiscal year, the Secretary of Labor shall submit to the Congress a final report containing comprehensive information on the estimated savings that result from the assessments of claimants and identification of best practices.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the ''Federal unemployment benefits and allowances'' account, to remain available until September 30, 2009, $437,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2008, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $91,133,000, together with not to exceed $94,372,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employee Benefits Security Administration, $143,262,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program, including associated administrative expenses, through September 30, 2008, for such Corporation: Provided, That none of the funds available to the Corporation for fiscal year 2008 shall be available for obligations for administrative expenses in excess of $411,151,000: Provided further, That obligations in excess of such amount may be incurred after approval by the Office of Management and Budget and the Committees on Appropriations of the House and Senate: Provided further, That to the extent that the number of new plan participants in plans terminated by the Corporation exceeds 100,000 in fiscal year 2008, an amount not to exceed an additional $9,200,000 shall be available for obligation for administrative expenses for every 20,000 additional terminated participants: Provided further, That an additional $50,000 shall be made available for obligation for investment management fees for every $25,000,000 in assets received by the Corporation as a result of new plan terminations, after approval by the Office of Management and Budget and notification of the Committees on Appropriations of the House of Representatives and the Senate.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING RESCISSION)

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $436,397,000, together with $2,111,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d), and 44(j) of the Longshore and Harbor Workers' Compensation Act: Provided, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

Of the unobligated funds collected pursuant to section 286(v) of the Immigration and Nationality Act, $70,000,000 are hereby rescinded.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the heading ''Civilian War Benefits'' in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948

(50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $203,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: Provided, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: Provided further, That balances of reimbursements unobligated on September 30, 2007, shall remain available until expended for the payment of compensation, benefits, and expenses: Provided further, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2008: Provided further, That of those funds transferred to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, $52,280,000 shall be made available to the Secretary as follows:

(1) For enhancement and maintenance of automated data processing systems and telecommunications systems, $21,855,000.

(2) For automated workload processing operations, including document imaging, centralized mail intake and medical bill processing, $16,109,000.

(3) For periodic roll management and medical review, $14,316,000.

(4) The remaining funds shall be paid into the Treasury as miscellaneous receipts:

Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107–275 (the ''Act''), $208,221,000, to remain available until expended.

For making after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV for the first quarter of fiscal year 2009, $62,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Program Act, $104,745,000, to remain available until expended: Provided, That the Secretary of Labor is authorized to transfer to any executive agency with authority under the Energy Employees Occupational Illness Compensation Program Act, including within the Department of Labor, such sums as may be necessary in fiscal year 2008 to carry out those authorities: Provided further, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security account number) as may be prescribed: Provided further, That not later than 30 days after enactment, in addition to other sums transferred by the Secretary of Labor to the National Institute for Occupational Safety and Health (''NIOSH'') for the administration of the Energy Employees Occupational Illness Compensation Program (''EEOICP''), the Secretary of Labor shall transfer $4,500,000 to NIOSH from the funds appropriated to the Energy Employees Occupational Illness Compensation Fund (42 U.S.C. 7384e), for use by or in support of the Advisory Board on Radiation and Worker Health (''the Board'') to carry out its statutory responsibilities under the EEOICP (42 U.S.C. 7384n–q), including obtaining audits, technical assistance and other support from the Board's audit contractor with regard to radiation dose estimation and reconstruction efforts, site profiles, procedures, and review of Special Exposure Cohort petitions and evaluation reports.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

In fiscal year 2008 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2008 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): not to exceed $32,761,000 for transfer to the Employment Standards Administration ''Salaries and Expenses''; not to exceed $24,785,000 for transfer to Departmental Management, ''Salaries and Expenses''; not to exceed $335,000 for transfer to Departmental Management ''Office of Inspector General''; and not to exceed $356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $498,445,000, including not to exceed $91,093,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the ''Act''), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: Provided, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 2008, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having a Days Away, Restricted, or Transferred (DART) occupational injury and illness rate, at the most precise industrial classification code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That $10,116,000 shall be available for Susan Harwood training grants, of which $3,200,000 shall be used for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of October 1, 2007, to September 30, 2008, provided that a grantee has demonstrated satisfactory performance: Provided further, That such grants shall be awarded not later than 30 days after the date of enactment of this Act.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $330,028,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles, including up to $2,000,000 for mine rescue and recovery activities, $2,200,000 for an award to the United Mine Workers Association, for classroom and simulated rescue training for mine rescue teams, and $1,350,000 for an award to the Wheeling Jesuit University, for the National Technology Transfer Center for a coal slurry impoundment project; in addition, not to exceed $750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to $1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; the Secretary is authorized to recognize the Joseph A. Holmes Safety Association as a principal safety association and, notwithstanding any other provision of law, may provide funds and, with or without reimbursement, personnel, including service of Mine Safety and Health Administration officials as officers in local chapters or in the national organization; and any

funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $482,000,000, together with not to exceed $78,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, of which $5,000,000 may be used to fund the mass layoff statistics program under section 15 of the Wagner-Peyser Act (29 U.S.C. 49l–2): Provided, That the Current Employment Survey shall maintain the content of the survey issued prior to June 2005 with respect to the collection of data for the women worker series.

OFFICE OF DISABILITY EMPLOYMENT POLICY

SALARIES AND EXPENSES

For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, $27,712,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including the management or operation, through contracts, grants or other arrangements of Departmental activities conducted by or through the Bureau of International Labor Affairs, including bilateral and multilateral technical assistance and other international labor activities, $313,400,000, of which $82,516,000 is for the Bureau of International Labor Affairs, and of which $22,000,000 is for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and related needs, which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment strategy; together with not to exceed $318,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

OFFICE OF JOB CORPS

To carry out subtitle C of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2881 et. seq.), including Federal administrative expenses, the purchase and hire of passenger motor vehicles, the construction, alteration and repairs of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act; $1,659,872,000, plus reimbursements, as follows:

(1) $1,516,000,000 for Job Corps Operations, of which $925,000,000 is available for obligation for the period July 1, 2008 through June 30, 2009 and of which $591,000,000 is available for obligation for the period October 1, 2008 through June 30, 2009;

(2) $115,000,000 for construction, rehabilitation and acquisition of Job Corps Centers, of which $15,000,000 is available for the period July 1, 2008 through June 30, 2009 and $100,000,000 is available for the period October 1, 2008 through June 30, 2011; and

(3) $28,872,000 for necessary expenses of the Office of Job Corps is available for obligation for the period October 1, 2007 through September 30, 2008:

Provided, That the Office of Job Corps shall have contracting authority: Provided further, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: Provided further, That none of the funds made available in this Act shall be used to reduce Job Corps total student training slots below 44,791 in program year 2008.

VETERANS EMPLOYMENT AND TRAINING

Not to exceed $197,143,000 may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4113, 4211–4215, and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 2008, of which $1,967,000 is for the National Veterans' Employment and Training Services Institute. To carry out the Homeless Veterans Reintegration Programs (38 U.S.C. 2021) and the Veterans Workforce Investment Programs (29 U.S.C. 2913), $31,055,000, of which $7,435,000 shall be available for obligation for the period July 1, 2008, through June 30, 2009: Provided, That $3,000,000 shall be transferred from amounts made available in this title for salaries and expenses of the Department of Labor, to carry out Federal management activities relating to veterans employment and training.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $73,929,000, together with not to exceed $5,729,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act for the Job Corps shall be used to pay the salary of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level I.

(TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: Provided, That a program, project, or activity may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: Provided further, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 103. In accordance with Executive Order No. 13126, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, whole or in part, by forced or indentured child labor in industries and host countries already identified by the United States Department of Labor prior to enactment of this Act.

SEC. 104. There is authorized to be appropriated such sums as may be necessary to the Denali Commission through the Department of Labor to conduct job training of the local workforce where Denali Commission projects will be constructed.

SEC. 105. The Secretary shall prepare and submit not later than July 1, 2008, to the Committees on Appropriations of the Senate and of the House an operating plan that outlines the planned allocation by major project and activity of fiscal year 2008 funds made available for section 171 of the Workforce Investment Act.

SEC. 106. None of the funds available in this Act or available to the Secretary of Labor from other sources for Community College Initiative Grants, Community-Based Job Training Grants, and grants authorized under section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 shall be obligated for a grant awarded on a non-competitive basis.

SEC. 107. None of the funds made available in this or any other Act shall be available to finalize or implement any proposed regulation under the Workforce Investment Act of 1998, Wagner-Peyser Act of 1933, or the Trade Adjustment Assistance Reform Act of 2002 until such time as legislation reauthorizing the Workforce Investment Act of 1998 and the Trade Adjustment Assistance Reform Act of 2002 is enacted.

SEC. 108. The Secretary of Labor shall take no action to amend, through regulatory or administration action, the definition established in 20 CFR 667.220 for functions and activities under title I of the Workforce Investment Act of 1998, or to modify, through regulatory or administrative action, the procedure for redesignation of local areas as specified in subtitle B of title I of that Act (including applying the standards specified in section 116(a)(3)(B) of that Act, but notwithstanding the time limits specified in section 116(a)(3)(B) of that Act), until such time as legislation reauthorizing the Act is enacted. Nothing in the preceding sentence shall permit or require the Secretary of Labor to withdraw approval for such redesignation from a State that received the approval not later than October 12, 2005, or to revise action taken or modify the redesignation procedure being used by the Secretary in order to complete such redesignation for a State that initiated the process of such redesignation by submitting any request for such redesignation not later than October 26, 2005.

SEC. 109. None of the funds available in this Act may be used to carry out a public-private competition or direct conversion under Office of Management and Budget Circular A–76 or any successor administrative regulation, directive or policy until 60 days after the Government Accountability Office provides a report to the Committees on Appropriations of the House of Representatives and the Senate on the use of competitive sourcing at the Department of Labor.

SEC. 110. (a) Not later than June 20, 2008, the Secretary of Labor shall revise regulations prescribed pursuant to section 303(y) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 863(y)) to require, in any coal mine, regardless of the date on which it was opened, that belt haulage entries not be used to ventilate active working places without prior approval from the Assistant Secretary of Labor.

(b) Not later than June 15, 2008, the Secretary of Labor shall issue regulations, pursuant to the design criteria recommended by the National Institute of Occupational Safety and Health and section 13 of the MINER Act (Public Law 109–236), requiring installation of rescue chambers in the working areas of underground coal mines.

SEC. 111. None of the funds appropriated in this Act under the heading ''Employment and Training Administration'' shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A–133. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs.

SEC. 112. (a) In addition to amounts otherwise appropriated under this Act, there is appropriated, out of any money in the Treasury not otherwise appropriated, an additional $10,000,000 for necessary expenses for salaries and expenses of the Mine Safety and Health Administration.

(b) Amounts made available under this Act for travel expenses for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by $10,000,000.

SEC. 113. To enable the National Institute for Occupational Safety and Health to carry out the Fire Fighter Fatality Investigation and Prevention Program, $5,000,000, which shall include any other amounts made available under this Act for such Program. Amounts made available under this Act for travel expenses for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by $2,500,000.

This title may be cited as the ''Department of Labor Appropriations Act, 2008''.

TITLE II

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, IV, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and sections 1128E, and 711, and 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, the Native Hawaiian Health Care Act of 1988, as amended, the Cardiac Arrest Survival Act of 2000, and section 712 of the American Jobs Creation Act of 2004, $6,843,673,000, of which $191,235,000 shall be available for construction and renovation (including equipment) of health care and other facilities and other health-related activities as specified in the committee report of the Senate accompanying this Act, and of which $38,538,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act, and of which $250,000 shall be for the Center for Asbestos Related Disease (CARD) Clinic in Libby, Montana: Provided, That of the funds made available under this heading, $220,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: Provided further, That $40,000,000 of the funding provided for community health centers shall be for base grant adjustments for existing health centers: Provided further, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: Provided further, That fees collected for the full disclosure of information under the ''Health Care Fraud and Abuse Data Collection Program'', authorized by section 1128E(d)(2) of the Social Security Act, shall be sufficient to recover the full costs of operating the program, and shall remain available until expended to carry out that Act: Provided further, That no more than $40,000 is available until expended for carrying out the provisions of 42 U.S.C. 233(o) including associated administrative expenses and relevant evaluations: Provided further, That no more than $44,055,000 is available until expended for carrying out the provisions of Public Law 104–73 and for expenses incurred by the Department of Health and Human Services pertaining to administrative claims made under such law: Provided further, That of the funds made available under this heading, $300,000,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: Provided further, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: Provided further, That $814,546,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: Provided further, That in addition to amounts provided herein, $25,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out Parts A, B, C, and D of title XXVI of the Public Health Service Act to fund section 2691 Special Projects of National Significance: Provided further, That, notwithstanding section 502(a)(1) and 502(b)(1) of the Social Security Act, not to exceed $95,936,920 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act and $10,586,238 is available for projects described in paragraphs (A) through (F) of section 501(a)(3) of such Act: Provided further, That of the funds provided, $39,283,000 shall be provided to the Denali Commission as a direct lump payment pursuant to Public Law 106–113: Provided further, That of the funds available under this heading, $1,829,511,000 shall remain available to the Secretary until September 30, 2010, for parts A and B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–11 et seq.; relating to Ryan White Emergency Relief Grants and CARE Grants): Provided further, That of the funds provided, $25,000,000 shall be provided for the Delta Health Initiative as authorized in section 222 of this Act and associated administrative expenses: Provided further, That notwithstanding section 747(e)(2) of the PHS Act, and not less than $5,000,000 shall be for general dentistry programs and not less than $5,000,000 shall be for pediatric dentistry programs and not less than $24,614,000 shall be for family medicine programs: Provided further, That of the funds available under this heading, $12,000,000 shall be provided for the National Cord Blood Inventory pursuant to the Stem Cell Therapeutic and Research Act of 2005 (Public Law 109–129): Provided further, That where prior year funds were disbursed under this appropriation account as Health Care and Other Facilities grants (and were used for the purchase, construction, or major alteration of property; or the purchase of equipment), the Federal interest in such property or equipment shall last for a period of 5 years following the completion of the project and terminate at that time: Provided further, That if the property use changes (or the property is transferred or sold) and the Government is compensated for its proportionate interest in the property, the Federal interest in such property shall be terminated: Provided further, That for projects where 5 years has already elapsed since completion, the Federal interest shall be terminated immediately.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, $2,906,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: Provided, That for necessary administrative expenses, not to exceed $3,528,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX, XXI, and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, and the Mine Improvement and New Emergency Response Act of 2006, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and for expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological, and chemical threats to civilian populations; including purchase and insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, $6,157,169,000, of which $220,000,000 shall remain available until expended for equipment, construction and renovation of facilities; of which $581,335,000 shall remain available until expended for the Strategic National Stockpile; and of which $122,769,000 for international HIV/AIDS shall remain available until September 30, 2009. In addition, such sums as may be derived from authorized user fees, which shall be credited to this account: Provided, That in addition to amounts provided herein, the following amounts shall be available from amounts available under section 241 of the Public Health Service Act: (1) $12,794,000 to carry out the National Immunization Surveys; (2) $108,585,000 to carry out the National Center for Health Statistics surveys; (3) $24,751,000 to carry out information systems standards development and architecture and applications-based research used at local public health levels; (4) $463,000 for Health Marketing evaluations; (5) $31,000,000 to carry out Public Health Research; and (6) $92,071,000 to carry out research activities within the National Occupational Research Agenda: Provided further, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used, in whole or in part, to advocate or promote gun control: Provided further, That up to $31,800,000 shall be made available until expended for Individual Learning Accounts for full-time equivalent employees of the Centers for Disease Control and Prevention: Provided further, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: Provided further, That the Congress is to be notified promptly of any such transfer: Provided further, That not to exceed $19,035,000 may be available for making grants under section 1509 of the Public Health Service Act to not less than 15 States, tribes, or tribal organizations: Provided further, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18: Provided further, That of the funds appropriated, $10,000 is for official reception and representation expenses when specifically approved by the Director of the Centers for Disease Control and Prevention: Provided further, That employees of the Centers for Disease Control and Prevention or the Public Health Service, both civilian and Commissioned Officers, detailed to States, municipalities, or other organizations under authority of section 214 of the Public Health Service Act, or in overseas assignments, shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency, Service, or the Department of Health and Human Services during

the period of detail or assignment: Provided further, That if States are eligible, up to $30,000,000 shall be used to implement section 2625 of the Public Health Service Act (42 U.S.C. 300ff–33; relating to the Ryan White early diagnosis grant program): Provided further, That $16,890,000 shall be available for the projects and in the amounts specified in the committee report of the Senate accompanying this Act.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $4,910,160,000, of which up to $8,000,000 may be used for facilities repairs and improvements at the NCI-Frederick Federally Funded Research and Development Center in Frederick, Maryland.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $2,992,197,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $398,602,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, $1,747,784,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $1,573,268,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $4,668,472,000: Provided, That $300,000,000 may be made available to International Assistance Programs ''Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis'', to remain available until expended: Provided further, That such sums obligated in fiscal years 2003 through 2007 for extramural facilities construction projects are to remain available until expended for disbursement, with prior notification of such projects to the Committees on Appropriations of the House of Representatives and the Senate.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $1,978,601,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $1,282,231,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $681,962,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $656,176,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $1,073,048,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, $519,810,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $402,680,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $140,456,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $445,702,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $1,022,594,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $1,436,001,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $497,031,000.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

For carrying out section 301 and title IV of the Public Health Service Act with respect to biomedical imaging and bioengineering research, $304,319,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $1,177,997,000: Provided, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, $124,213,000.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, $203,895,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $68,000,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $327,817,000, of which $4,000,000 shall be available until expended for improvement of information systems: Provided, That in fiscal year 2008, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health: Provided further, That in addition to amounts provided herein, $8,200,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out National Information Center on Health Services Research and Health Care Technology and related health services.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $1,145,790,000, of which up to $25,000,000 shall be used to carry out section 217 of this Act: Provided, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: Provided further, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: Provided further, That all funds credited to the National Institutes of Health Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: Provided further, That up to $500,000 shall be available to carry out section 499 of the Public Health Service Act: Provided further, That $110,900,000 shall be available to carry out the National Children's Study: Provided further, That $531,300,000 shall be available for the Common Fund established under section 402A(c)(1) of the Public Health Service Act: Provided further, That of the funds provided $10,000 shall be for official reception and representation expenses when specifically approved by the Director of NIH: Provided further, That the Office of AIDS Research within the Office of the Director, NIH may spend up to $4,000,000 to make grants for construction or renovation of facilities as provided for in section 2354(a)(5)(B) of the Public Health Service Act.

BUILDINGS AND FACILITIES

For the study of, construction of, renovation of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $121,081,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act (''PHS Act'') with respect to substance abuse and mental health services, the Protection and Advocacy for Individuals with Mental Illness Act, and section 301 of the PHS Act with respect to program management, $3,278,135,000, of which $10,335,000 shall be available for projects and in the amounts specified in the committee report accompanying this Act: Provided, That notwithstanding section 520A(f)(2) of the PHS Act, no funds appropriated for carrying out section 520A are available for carrying out section 1971 of the PHS Act: Provided further, That of the funds provided to the Child Trauma Stress Network Initiative, priority shall be given to those centers, that previously received grants, that provide mental health services to children affected by Hurricane Katrina and/or Rita: Provided further, That in addition to amounts provided herein, the following amounts shall be available under section 241 of the PHS Act: (1) $79,200,000 to carry out subpart II of part B of title XIX of the PHS Act to fund section 1935(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1935(b) activities shall not exceed 5 percent of the amounts appropriated for subpart II of part B of title XIX; (2) $21,413,000 to carry out subpart I of part B of title XIX of the PHS Act to fund section 1920(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1920(b) activities shall not exceed 5 percent of the amounts appropriated for subpart I of part B of title XIX; (3) $21,750,000 to carry out national surveys on drug abuse; and (4) $4,300,000 to evaluate substance abuse treatment programs: Provided further, That section 520E(b)(2) of the Public Health Service Act shall not apply to funds appropriated under this Act for fiscal year 2008.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of

the Social Security Act, $329,564,000; and in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: Provided, That no amount shall be made available pursuant to section 927(c) of the Public Health Service Act for fiscal year 2008: Provided further, That $5,000,000 shall be for activities to reduce infections from methicillin-resistant staphylococcus aureus (MRSA) and related infections.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $141,628,056,000, to remain available until expended.

For making, after May 31, 2008, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2008 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2009, $67,292,669,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 1844 and 1860D–16 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $188,828,000,000.

In addition, for making matching payments under section 1844, and benefit payments under section 1860D–16 of the Social Security Act, not anticipated in budget estimates, such sums as may be necessary.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed $3,248,088,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and section 1857(e)(2) of the Social Security Act, funds retained by the Secretary pursuant to section 302 of the Tax Relief and Health Care Act of 2006; and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended: Provided, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: Provided further, That $49,869,000, to remain available until September 30, 2009, is for contract costs for the Healthcare Integrated General Ledger Accounting System: Provided further, That $253,775,000, to remain available until September 30, 2009, is for CMS Medicare contracting reform activities: Provided further, That funds appropriated under this heading are available for the Healthy Start, Grow Smart program under which the Centers for Medicare and Medicaid Services may, directly or through grants, contracts, or cooperative agreements, produce and distribute informational materials including, but not limited to, pamphlets and brochures on infant and toddler health care to expectant parents enrolled in the Medicaid program and to parents and guardians enrolled in such program with infants and children: Provided further, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2008 from Medicare Advantage organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act: Provided further, That in addition, the Secretary may charge a fee for conducting revisit surveys on health care facilities cited for deficiencies during initial certification, recertification, or substantiated complaints surveys: Provided further, That such fees, in an amount not to exceed $35,000,000, shall be credited to this account as offsetting collections, to remain available until expended for the purpose of conducting such revisit surveys: Provided further, That amounts transferred to this account from the Federal Health Insurance and Federal Supplementary Medical Insurance Trust Funds for fiscal year 2008 shall be reduced by the amount credited to this account under this paragraph: Provided further, That $1,625,000 shall be available for the projects and in the amounts specified in the committee report of the Senate accompanying this Act.

HEALTH CARE FRAUD ABUSE AND CONTROL ACCOUNT

In addition to amounts otherwise available for program integrity and program management, $383,000,000, to be available until expended, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act, of which $288,480,000 is for the Medicare Integrity Program at the Centers for Medicare and Medicaid Services to conduct oversight of activities authorized in title 18 of the Social Security Act, with oversight activities including those activities listed in 18 U.S.C. 1893(b); of which $36,690,000 is for the Department of Health and Human Services Office of Inspector General; of which $21,140,000 is for the Department of Health and Human Services for program integrity activities in title 18, title 19 and title 21 of the Social Security Act; and of which $36,690,000 is for the Department of Justice: Provided, That the report required by 18 U.S.C. 1817(k)(5) for fiscal year 2008 shall include measures of the operational efficiency and impact on fraud, waste and abuse in the Medicare and Medicaid programs for the funds provided by this appropriation.

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), $2,949,713,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2009, $1,000,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act before the effective date of the program of Temporary Assistance for Needy Families (TANF) with respect to such State, such sums as may be necessary: Provided, That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

LOW-INCOME HOME ENERGY ASSISTANCE

For making payments under section 2604(a)–(d) of the Low Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(a)–(d)), $1,980,000,000.

For making payments under section 2604(e) of the Low Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), $181,170,000, notwithstanding the designation requirement of section 2602(e) of such Act.

REFUGEE AND ENTRANT ASSISTANCE

For necessary expenses for refugee and entrant assistance activities and for costs associated with the care and placement of unaccompanied alien children authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, for carrying out section 462 of the Homeland Security Act of 2002, and for carrying out the Torture Victims Relief Act of 1998, $654,166,000, of which up to $9,823,000 shall be available to carry out the Trafficking Victims Protection Act of 2000: Provided, That funds appropriated under this heading pursuant to section 414(a) of the Immigration and Nationality Act and section 462 of the Homeland Security Act of 2002 for fiscal year 2008 shall be available for the costs of assistance provided and other activities to remain available through September 30, 2010.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out the Child Care and Development Block Grant Act of 1990, $2,062,081,000 shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: Provided, That $18,777,370 shall be available for child care resource and referral and school-aged child care activities, of which $982,080 shall be available to the Secretary for discretionary activities to support comprehensive consumer education or parental choice: Provided further, That, in addition to the amounts required to be reserved by the States under section 658G, $267,785,718 shall be reserved by the States for activities authorized under section 658G, of which $98,208,000 shall be for activities that improve the quality of infant and toddler care: Provided further, That $9,821,000 shall be for use by the Secretary for child care research, demonstration, and evaluation activities.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $1,700,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, sections 310 and 316 of the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (adoption opportunities), sections 330F and 330G of the Public Health Service Act, the Abandoned Infants Assistance Act of 1988, sections 261 and 291 of the Help America Vote Act of 2002, part B(1) of title IV and sections 413, 1110, and 1115 of the Social Security Act; for making payments under the Community Services Block Grant Act, sections 439(i), 473B, and 477(i) of the Social Security Act, and the Assets for Independence Act, and for necessary administrative expenses to carry out such Acts and titles I, IV, V, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Low Income Home Energy Assistance Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and section 505 of the Family

Support Act of 1988, $9,213,332,000, of which $9,500,000, to remain available until September 30, 2009, shall be for grants to States for adoption incentive payments, as authorized by section 473A of the Social Security Act and may be made for adoptions completed before September 30, 2008: Provided, That $7,088,571,000 shall be for making payments under the Head Start Act, of which $1,388,800,000 shall become available October 1, 2008, and remain available through September 30, 2009: Provided further, That $735,281,000 shall be for making payments under the Community Services Block Grant Act: Provided further, That not less than $8,000,000 shall be for section 680(3)(B) of the Community Services Block Grant Act: Provided further, That in addition to amounts provided herein, $6,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the provisions of section 1110 of the Social Security Act: Provided further, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: Provided further, That the Secretary shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act, as amended, to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: Provided further, That funds appropriated for section 680(a)(2) of the Community Services Block Grant Act, as amended, shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: Provided further, That $53,625,000 is for a compassion capital fund to provide grants to charitable organizations to emulate model social service programs and to encourage research on the best practices of social service organizations: Provided further, That $16,720,000 shall be for activities authorized by the Help America Vote Act of 2002, of which $11,390,000 shall be for payments to States to promote access for voters with disabilities, and of which $5,330,000 shall be for payments to States for protection and advocacy systems for voters with disabilities: Provided further, That $80,416,000 shall be for making competitive grants to provide abstinence education to adolescents, and for Federal costs of administering the grant: Provided further, That information provided through grants under the immediately preceding proviso shall be scientifically accurate and shall comply with section 317P(c)(2) of the Public Health Service Act: Provided further, That in addition to amounts provided herein for abstinence education for adolescents, $4,500,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out evaluations (including longitudinal evaluations) of adolescent pregnancy prevention approaches: Provided further, That up to $2,000,000 shall be for improving the Public Assistance Reporting Information System, including grants to States to support data collection for a study of the system's effectiveness: Provided further, That $7,425,000 shall be available for the projects and in the amounts specified in the committee report of the Senate accompanying this Act.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 436 of the Social Security Act, $345,000,000 and section 437, $89,100,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV–E of the Social Security Act, $5,067,000,000.

For making payments to States or other non-Federal entities under title IV–E of the Act, for the first quarter of fiscal year 2009, $1,776,000,000.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under section 474 of title IV–E, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 398 of the Public Health Service Act, $1,441,585,000, of which $5,500,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions: Provided, That $2,935,000 shall be available for the projects and in the amounts specified in the committee report of the Senate accompanying this Act.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, the United States-Mexico Border Health Commission Act, and research studies under section 1110 of the Social Security Act, $399,386,000, together with $5,851,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund, and $46,756,000 from the amounts available under section 241 of the Public Health Service Act to carry out national health or human services research and evaluation activities: Provided, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, $13,120,000 shall be for activities specified under section 2003(b)(2), all of which shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: Provided further, That of this amount, $51,891,000 shall be for minority AIDS prevention and treatment activities; and $5,941,000 shall be to assist Afghanistan in the development of maternal and child health clinics, consistent with section 103(a)(4)(H) of the Afghanistan Freedom Support Act of 2002; up to $4,000,000 shall be for the Secretary's discretionary fund and may be used to carry out activities authorized under the Department's statutory authorities; and $9,500,000 shall be for a Health Diplomacy Initiative and may be used to carry out health diplomacy activities such as health training, services, education, and program evaluation, provided directly, through grants, or through contracts: Provided further, That specific information requests from the chairmen and ranking members of the Subcommittees on Labor, Health and Human Services, and Education, and Related Agencies, on scientific research or any other matter, shall be transmitted to the Committees on Appropriations in a prompt professional manner and within the time frame specified in the request: Provided further, That scientific information requested by the Committees on Appropriations and prepared by government researchers and scientists shall be transmitted to the Committees on Appropriations, uncensored and without delay: Provided further, That funds provided in this Act for embryo adoption activities may be used to provide, to individuals adopting embryos, through grants and other mechanisms, medical and administrative services deemed necessary for such adoptions: Provided further, That such services shall be provided consistent with 42 CFR 59.5(a)(4): Provided further, That $2,100,000 shall be available for the projects and in the amounts specified in the committee report of the Senate accompanying this Act: Provided further, That $500,000 shall be available to complete a feasibility study for a National Registry of Substantiated Cases of Child Abuse or Neglect, as described in section 633(g) of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248), and the Secretary of Health and Human Services shall submit the report described in section 633(g)(2) of such Act not later than 1 year after date of enactment of this Act: Provided further, That $2,000,000 of the amounts appropriated under this heading shall be made available to carry out dental workforce programs under section 340G of the Public Health Service Act (42 U.S.C. 256g).

OFFICE OF MEDICARE HEARINGS AND APPEALS

For expenses necessary for administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions of title XI of such Act), $70,000,000, to be transferred in appropriate part from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

For expenses necessary for the Office of the National Coordinator for Health Information Technology, including grants, contracts and cooperative agreements for the development and advancement of an interoperable national health information technology infrastructure, $43,000,000: Provided, That in addition to amounts provided herein, $28,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out health information technology network development.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, including the hire of passenger motor vehicles for investigations, in carrying out the provisions of the Inspector General Act of 1978, as amended, $45,687,000: Provided, That of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under 18 U.S.C. 228.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $33,748,000, together with not to exceed $3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), such amounts as may be required during the current fiscal year.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological and chemical threats to civilian populations, and for other public health emergencies, $786,556,000, of which not to exceed $22,338,000, to remain available until September 30, 2009, is to pay the costs described in section 319F–2(c)(7)(B) of the Public Health Service Act, and of which $189,000,000 shall be used to support advanced research and development of medical countermeasures, consistent with section 319L of the Public Health Service Act.

For expenses necessary to prepare for and respond to an influenza pandemic, $888,000,000, of

which $652,000,000 shall be available until expended, for activities including the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools: Provided, That products purchased with these funds may, at the discretion of the Secretary, be deposited in the Strategic National Stockpile: Provided further, That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccines and other biologicals, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologicals: Provided further, That $158,000,000 shall be transferred within 30 days of enactment to the Centers for Disease Control and Prevention for pandemic preparedness activities: Provided further, That funds appropriated herein and not specifically designated under this heading may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposes specified in this sentence.

For expenses to provide screening and treatment for first response emergency services personnel, residents, students, and others related to the September 11, 2001, terrorist attacks on the World Trade Center, $55,000,000 to be transferred to Centers for Disease Control and Prevention, Disease Control, Research, and Training.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $50,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated in this Act may be used to implement section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I.

SEC. 205. None of the funds appropriated in this title for Head Start shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

SEC. 206. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

SEC. 207. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary shall determine, but not more than 2.4 percent, of any amounts appropriated for programs authorized under said Act shall be made available for the evaluation (directly, or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 208. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: Provided, That a program, project, or activity may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: Provided further, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

(TRANSFER OF FUNDS)

SEC. 209. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes and centers from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: Provided, That the Appropriations Committees of both Houses of Congress are promptly notified of the transfer.

(TRANSFER OF FUNDS)

SEC. 210. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the ''Office of AIDS Research'' account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 211. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 212. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare Advantage program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: Provided, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): Provided further, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare Advantage organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 213. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 214. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) if such State certifies to the Secretary of Health and Human Services by May 1, 2008, that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2008 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2007, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2007 State expenditures and all fiscal year 2008 obligations for tobacco prevention and compliance activities by program activity by July 31, 2008.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2008.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 from a territory that receives less than $1,000,000.

SEC. 215. In order for the Department of Health and Human Services to carry out international health activities, including HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad during fiscal year 2008, the Secretary of Health and Human Services—

(1) may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)). The Secretary of Health and Human Services shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State; and

(2) is authorized to provide such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of the Department of Health and Human Services. The Department of State shall cooperate fully with the Secretary of Health and Human Services to ensure that the Department of Health and Human Services has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and other facilities requirements and serve the purposes established by this Act. The Secretary of Health and Human Services is authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make available to public or nonprofit private institutions or agencies in participating foreign countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

SEC. 216. The Division of Federal Occupational Health hereafter may utilize personal services contracting to employ professional management/administrative and occupational health professionals.

SEC. 217. (a) AUTHORITY.—Notwithstanding any other provision of law, the Director of the National Institutes of Health may use funds available under sections 402(b)(7) and 402(b)(12) of the Public Health Service Act (42 U.S.C. 282(i)) to enter into transactions (other than contracts, cooperative agreements, or grants) to carry out research in support of the NIH Common Fund.

(b) PEER REVIEW.—In entering into transactions under subsection (a), the Director of the

National Institutes of Health may utilize such peer review procedures (including consultation with appropriate scientific experts) as the Director determines to be appropriate to obtain assessments of scientific and technical merit. Such procedures shall apply to such transactions in lieu of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494 of the Public Health Service Act (42 U.S.C. 241, 284(b)(1)(B), 284(b)(2), 284a(a)(3)(A), 289a, and 289c).

SEC. 218. Funds which are available for Individual Learning Accounts for employees of the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry may be transferred to ''Disease Control, Research, and Training'', to be available only for Individual Learning Accounts: Provided, That such funds may be used for any individual full-time equivalent employee while such employee is employed either by CDC or ATSDR.

SEC. 219. Notwithstanding any other provisions of law, funds made available in this Act may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408.

SEC. 220. In addition to any other amounts available for such travel, and notwithstanding any other provision of law, amounts available from this or any other appropriation for the purchase, hire, maintenance, or operation of aircraft by the Centers for Disease Control and Prevention shall be available for travel by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, and employees of the Department of Health and Human Services accompanying the Secretary or the Director during such travel.

SEC. 221. The Director of the National Institutes of Health shall require that all investigators funded by the NIH submit or have submitted for them to the National Library of Medicine's PubMed Central an electronic version of their final, peer-reviewed manuscripts upon acceptance for publication to be made publicly available no later than 12 months after the official date of publication: Provided, That the NIH shall implement the public access policy in a manner consistent with copyright law.

SEC. 222. (a) The Secretary of Health and Human Services is authorized to award a grant to the Delta Health Alliance, a nonprofit alliance of academic institutions in the Mississippi Delta region that has as its primary purposes addressing longstanding, unmet health needs and catalyzing economic development in the Mississippi Delta.

(b) To be eligible to receive a grant under subsection (a), the Delta Health Alliance shall solicit and fund proposals from local governments, hospitals, health care clinics, academic institutions, and rural public health-related entities and organizations for research development, educational programs, health care services, job training, and planning, construction, and equipment of public health-related facilities in the Mississippi Delta region.

(c) With respect to the use of grant funds under this section for construction or major alteration of property, the Federal interest in the property involved shall last for a period of 1 year following the completion of the project or until such time that the Federal Government is compensated for its proportionate interest in the property if the property use changes or the property is transferred or sold, whichever time period is less. At the conclusion of such period, the Notice of Federal Interest in such property shall be removed.

(d) There are authorized to be appropriated such sums as may be necessary to carry out this section in fiscal year 2008 and in each of the five succeeding fiscal years.

SEC. 223. Not to exceed $35,000,000 of funds appropriated by this Act to the Institutes and Centers of the National Institutes of Health may be used for alteration, repair, or improvement of facilities, as necessary for the proper and efficient conduct of the activities authorized herein, at not to exceed $2,500,000 per project.

(TRANSFER OF FUNDS)

SEC. 224. Of the amounts made available in this Act for the National Institutes of Health, 1 percent of the amount made available for National Research Service Awards (NRSA) shall be made available to the Administrator of the Health Resources and Services Administration to make NRSA awards for research in primary medical care to individuals affiliated with entities who have received grants or contracts under section 747 of the Public Health Service Act, and 1 percent of the amount made available for NRSA shall be made available to the Director of the Agency for Healthcare Research and Quality to make NRSA awards for health service research.

SEC. 225. Nothing in this Act shall be construed to effect or otherwise modify provisions of current Federal law with respect to the funding of abortion.

SEC. 226. Of the funds made available in this Act for subtitle B of title IV of the Cardiac Arrest Survival Act of 2000 (Public Law 106–505), $200,000 shall be used to carry out section 312(c)(6) of the Public Health Service Act.

SEC. 227. (a) In addition to any amounts appropriated or otherwise made available under this Act to the Health Resources and Services Administration to carry out programs and activities under the Health Care Safety Net Amendments of 2002 (Public Law 107–251) and the amendments made by such Act, and for other telehealth programs under section 330I of the Public Health Service Act (42 U.S.C. 254c–14), there shall be made available an additional $6,800,000, to (1) expand support for existing and new telehealth resource centers, including at least 1 resource center focusing on telehomecare; (2) support telehealth network grants, telehealth demonstrations, and telehomecare pilot projects; and (3) provide grants to carry out programs under which health licensing boards or various States cooperate to develop and implement policies that will reduce statutory and regulatory barriers to telehealth.

(b) Notwithstanding any other provision of this Act, amounts appropriated or otherwise made available under this Act for the administrative and related expenses for departmental management for the Department of Labor, the Department of Health and Human Services, and the Department of Education, shall be reduced on a pro rata basis by $6,800,000.

SEC. 228. (a) Not later than November 30, 2008, the Comptroller General of the United States shall submit to Congress a report concerning State health care reform initiatives.

(b) The report required under subsection (a) shall include the following:

(1) An assessment of State efforts to reexamine health care delivery and health insurance systems and to expand the access of residents to health insurance and health care services, including the following:

(A) An overview of State approaches to reexamining health care delivery and insurance.

(B) A description of whether and to what extent State health care initiatives have resulted in improved access to health care and insurance.

(C) A description of the extent to which public and private cooperation has occurred in State health care initiatives.

(D) A description of the outcomes of State insurance coverage mandates.

(E) A description of the effects of increased health care costs on State fiscal choices.

(F) A description of the effects of Federal law and funding on State health care initiatives and fiscal choices.

(G) A description of outcomes of State efforts to increase health care quality and control costs.

(2) Recommendations regarding the potential role of Congress in supporting State-based reform efforts, including the following:

(A) Enacting changes in Federal law that would facilitate State-based health reform and expansion efforts.

(B) Creating new or realigning existing Federal funding mechanisms to support State-based reform and expansion efforts.

(C) Expanding existing Federal health insurance programs and increasing other sources of Federal health care funding to support State-based health reform and expansion efforts.

SEC. 229. None of the funds made available in this Act may be used—

(1) for the Ombudsman Program of the Centers for Disease Control and Prevention; and

(2) by the Centers for Disease Control and Prevention to provide additional rotating pastel lights, zero-gravity chairs, or dry-heat saunas for its fitness center.

SEC. 230. (a) In addition to amounts otherwise appropriated under this Act, there is appropriated, out of any money in the Treasury not otherwise appropriated, an additional $3,000,000 for the Centers for Disease Control and Prevention to make grants under the State Heart Disease and Stroke Prevention Program.

(b) Amounts made available under this Act for consulting services for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be further reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by $3,000,000.

SEC. 231. Notwithstanding any other provision of this Act, amounts appropriated in this Act for the administration and related expenses for the departmental management of the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced by a pro rata percentage required to reduce the total amount appropriated in this Act by $30,000,000.

SEC. 232. (a) In addition to any other amounts appropriated or otherwise made available under this Act, $8,000,000 shall be available to carry out activities under the Patient Navigator Outreach and Chronic Disease Prevention Act of 2005 (Public Law 109–18).

(b) Amounts made available under this Act for consulting services for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be further reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by $8,000,000.

SEC. 233. (a) In addition to other amounts made available in this title, $3,000,000 shall be made available for trauma care activities.

(b) Amounts made available under this Act for consulting services for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by $6,000,000.

SEC. 234. (a) In addition to other amounts appropriated in this title to carry out title VII of the Public Health Service Act, $2,000,000 shall be made available to carry out allied health professional programs under section 755 of such title VII, other than the Chiropractic-Medical School Demonstration Grant program, Graduate Psychology training programs, and podiatric physicians programs.

(b) Amounts made available under this Act for consulting services for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced further on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by $2,000,000.

SEC. 235. It is the sense of the Senate that a portion of the funds appropriated under this title be used for frequent hemodialysis clinical trials at the National Institute of Diabetes and Digestive and Kidney Diseases.

SEC. 236. SMALL BUSINESS CHILD CARE GRANT PROGRAM. For carrying out the small business child care grant program under section 8303 of

the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (42 U.S.C. 9858 note) $5,000,000, to remain available until expended. Each amount otherwise appropriated in this Act for administrative expenses for the Department of Labor, Department of Health and Human Services, and Department of Education shall be reduced on a pro rata basis by the amount necessary to provide the amount referred to in the preceding sentence.

SEC. 237. Notwithstanding any other provision of law, no funds shall be made available under this Act to modify the HIV/AIDS funding formulas under title XXVI of the Public Health Service Act.

SEC. 238. (a) The amount made available under the heading ''AGING SERVICES PROGRAMS'' under the heading ''ADMINISTRATION ON AGING'' in this title shall be increased by $10,000,000 of which—

(1) $5,000,000 shall be used to carry out part B of title III of the Older Americans Act of 1965 (42 U.S.C. 3030d) for fiscal year 2008 (for supportive services and senior centers to allow area agencies on aging to account for projected growth in the population of older individuals, and inflation);

(2) $2,000,000 shall be used to carry out part C of title III of such Act (42 U.S.C. 3030d–21 et seq.) for fiscal year 2008 (for congregate and home-delivered nutrition services to help account for increased gas and food costs); and

(3) $3,000,000 shall be used to carry out part E of title III of such Act (42 U.S.C. 3030s et seq.) for fiscal year 2008 (for the National Family Caregiver Support Program to fund the program at the level authorized for that program under that Act (42 U.S.C. 3001 et seq.)).

(b)(1) The 3 amounts described in paragraph (2) shall be reduced on a pro rata basis, to achieve a total reduction of $10,000,000.

(2) The amounts referred to in paragraph (1) are—

(A) the amount made available under the heading ''SALARIES AND EXPENSES'' under the heading ''DEPARTMENTAL MANAGEMENT'' in title I, for administration or travel expenses;

(B) the amount made available under the heading ''GENERAL DEPARTMENTAL MANAGEMENT'' under the heading ''OFFICE OF THE SECRETARY'' in this title, for administration or travel expenses; and

(C) the amount made available under the heading ''PROGRAM ADMINISTRATION'' under the heading ''DEPARTMENTAL MANAGEMENT'' in title III, for administration or travel expenses.

SEC. 239. (a) Notwithstanding any other provision of this Act, there shall be made available under this Act a total of $7,500,000 for the National Violent Death Reporting System within the Centers for Disease Control and Prevention.

(b) Amounts made available under this Act for travel and administrative expenses for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be further reduced on a pro rata basis by the percentage necessary to decrease the overall amount of such spending by $7,500,000.

SEC. 240. (a) Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall submit a report to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives on workers' compensation set-asides under the Medicare secondary payer set-aside provisions under title XVIII of the Social Security Act.

(b) The report described in subsection (a) shall contain the following information:

(1) The number of workers' compensation set-aside determination requests that have been pending for more than 60 days from the date of the initial submission for a workers' compensation set-aside determination.

(2) The average amount of time taken between the date of the initial submission for a workers' compensation set-aside determination request and the date of the final determination by the Centers for Medicare & Medicaid Services.

(3) The breakout of conditional payments recovered when workers' compensation is the primary payer separate from the amounts in Workers' Compensation Medicare Set-aside Accounts (in this section referred to as ''WCMSAs'').

(4) The aggregate amounts allocated in WCMSAs and disbursements from WCMSAs for fiscal year 2005 and fiscal year 2006.

(5) The number of conditional payment requests pending with regard to WCMSAs after 60 days from the date of the submission of the request.

(6) The number of WCMSAs that do not receive a determination based on the initial complete submission.

(7) Any other information determined appropriate by the Congressional Budget Office in order to determine the baseline revenue and expenditures associated with such workers' compensation set-asides.

SEC. 241. It is the sense of the Senate that the Secretary of Health and Human Services should maintain ''deemed status'' coverage under the Medicare program for clinical trials that are federally funded or reviewed, as provided for by the Executive Memorandum of June 2000.

SEC. 242. (a) The amount appropriated under the heading ''DISEASE CONTROL, RESEARCH, AND TRAINING'' under the heading ''CENTERS FOR DISEASE CONTROL AND PREVENTION'' in this title is increased by $1,000,000.

(b) The amount appropriated under the heading ''GENERAL DEPARTMENTAL MANAGEMENT'' under the heading ''OFFICE OF THE SECRETARY'' in this title is decreased by $1,000,000.

(c)(1)(A) The Secretary of Health and Human Services (acting through the Director of the National Institute for Occupational Safety and Health) shall conduct, and shall invite the University of Utah and West Virginia University to participate in conducting, a study of the recovery of coal pillars through retreat room and pillar mining practices in underground coal mines at depths greater than 1500 feet.

(B) The study shall examine the safety implications of retreat room and pillar mining practices, with emphasis on the impact of full or partial pillar extraction mining.

(C) The study shall consider, among other things—

(i) the conditions under which retreat mining is used, including conditions relating to—

(I) seam thickness;

(II) depth of cover;

(III) strength of the mine roof, pillars, and floor; and

(IV) the susceptibility of the mine to seismic activity; and

(ii) the procedures used to ensure miner safety during retreat mining.

(2)(A) Not later than 1 year after beginning the study described in paragraph (1), the Secretary shall submit a report containing the results of the study to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate.

(B) The report shall include recommendations to enhance the safety of miners working in underground coal mines where retreat mining in room and pillar operations is utilized. Among other things, the recommendations shall identify means of adapting any practical technology to the mining environment to improve miner protections during mining at depths greater than 1500 feet, and research needed to develop improved technology to improve miner protections during mining at such depths.

(3) Not later than 90 days after the submission of the report described in paragraph (2) to Congress, the Secretary of Health and Human Services shall publish a notice in the Federal Register describing the actions, if any, that the Secretary intends to take based on the report.

SEC. 243. None of the funds appropriated in this Act may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(g)) from importing a prescription drug from Canada that complies with sections 501, 502, and 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, and 355) and is not—

(1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

This title may be cited as the ''Department of Health and Human Services Appropriations Act, 2008''.

TITLE III

DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 (''ESEA'') and section 418A of the Higher Education Act of 1965, $15,867,778,000, of which $6,812,554,000 shall become available on July 1, 2008, and shall remain available through September 30, 2009, and of which $8,867,301,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009, for academic year 2008–2009: Provided, That $6,808,407,000 shall be for basic grants under section 1124: Provided further, That up to $4,000,000 of these funds shall be available to the Secretary of Education on October 1, 2007, to obtain annually updated educational-agency-level census poverty data from the Bureau of the Census: Provided further, That $1,365,031,000 shall be for concentration grants under section 1124A: Provided further, That $2,868,231,000 shall be for targeted grants under section 1125: Provided further, That $2,868,231,000 shall be for education finance incentive grants under section 1125A: Provided further, That $500,000,000 shall be for school improvement grants authorized under section 1003(g) of the ESEA: Provided further, That $9,330,000 shall be to carry out part E of title I: Provided further, That $1,634,000 shall be available for a comprehensive school reform clearinghouse.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $1,248,453,000, of which $1,111,867,000 shall be for basic support payments under section 8003(b), $49,466,000 shall be for payments for children with disabilities under section 8003(d), $17,820,000 shall be for construction under section 8007(b) and shall remain available through September 30, 2009, $64,350,000 shall be for Federal property payments under section 8002, and $4,950,000, to remain available until expended, shall be for facilities maintenance under section 8008: Provided, That for purposes of computing the amount of a payment for an eligible local educational agency under section 8003(a) of the Elementary and Secondary Education Act (20 U.S.C. 7703(a)) for school year 2007–2008, children enrolled in a school of such agency that would otherwise be eligible for payment under section 8003(a)(1)(B) of such Act, but due to the deployment of both parents or legal guardians, or a parent or legal guardian having sole custody of such children, or due to the death of a military parent or legal guardian while on active duty (so long as such children reside on Federal property as described in section 8003(a)(1)(B)), are no longer eligible under such section, shall be considered as eligible students under such section, provided such

students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by title II, part B of title IV, subparts 6 and 9 of part D of title V, parts A and B of title VI, and parts B and C of title VII of the Elementary and Secondary Education Act of 1965 (''ESEA''); the McKinney-Vento Homeless Assistance Act; section 203 of the Educational Technical Assistance Act of 2002; the Compact of Free Association Amendments Act of 2003; and the Civil Rights Act of 1964, $5,198,525,000, of which $3,560,485,000 shall become available on July 1, 2008, and remain available through September 30, 2009, and of which $1,435,000,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009, for academic year 2008–2009: Provided, That funds made available to carry out part B of title VII of the ESEA may be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body: Provided further, That from the funds referred to in the preceding proviso, not less than $1,250,000 shall be for a grant to the Department of Education of the State of Hawaii for the activities described in such proviso, and $1,250,000 shall be for a grant to the University of Hawaii School of Law for a Center of Excellence in Native Hawaiian law: Provided further, That funds made available to carry out part C of title VII of the ESEA may be used for construction: Provided further, That up to 100 percent of the funds available to a State educational agency under part D of title II of the ESEA may be used for subgrants described in section 2412(a)(2)(B) of such Act: Provided further, That $60,000,000 shall be available to carry out section 203 of the Educational Technical Assistance Act of 2002: Provided further, That $34,376,000 shall be available to carry out part D of title V of the ESEA: Provided further, That no funds appropriated under this heading may be used to carry out section 5494 under the ESEA: Provided further, That $18,001,000 shall be available to carry out the Supplemental Education Grants program for the Federated States of Micronesia and the Republic of the Marshall Islands: Provided further, That up to 5 percent of these amounts may be reserved by the Federated States of Micronesia and the Republic of the Marshall Islands to administer the Supplemental Education Grants programs and to obtain technical assistance, oversight and consultancy services in the administration of these grants and to reimburse the United States Departments of Labor, Health and Human Services, and Education for such services.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title VII, part A of the Elementary and Secondary Education Act of 1965, $118,690,000.

INNOVATION AND IMPROVEMENT

For carrying out activities authorized by parts G and H of title I, subpart 5 of part A and parts C and D of title II, parts B, C, and D of title V, and section 1504 of the Elementary and Secondary Education Act of 1965 (''ESEA''), $962,889,000: Provided, That $9,821,000 shall be provided to the National Board for Professional Teaching Standards to carry out section 2151(c) of the ESEA: Provided further, That from funds for subpart 4, part C of title II, up to 3 percent shall be available to the Secretary for technical assistance and dissemination of information: Provided further, That $317,699,000 shall be available to carry out part D of title V of the ESEA: Provided further, That $64,504,000 of the funds for subpart 1, part D of title V of the ESEA shall be available for the projects and in the amounts specified in the committee report of the Senate accompanying this Act: Provided further, That $99,000,000 of the funds for subpart 1 shall be for competitive grants to local educational agencies, including charter schools that are local educational agencies, or States, or partnerships of: (1) a local educational agency, a State, or both; and (2) at least one non-profit organization to develop and implement performance-based teacher and principal compensation systems in high-need schools: Provided further, That such performance-based compensation systems must consider gains in student academic achievement as well as classroom evaluations conducted multiple times during each school year among other factors and provide educators with incentives to take on additional responsibilities and leadership roles: Provided further, That five percent of such funds for competitive grants shall be available for technical assistance, training, peer review of applications, program outreach and evaluation activities.

SAFE SCHOOLS AND CITIZENSHIP EDUCATION

For carrying out activities authorized by subpart 3 of part C of title II, part A of title IV, and subparts 2, 3, and 10 of part D of title V of the Elementary and Secondary Education Act of 1965 (''ESEA''), $697,112,000, of which $300,000,000 shall become available on July 1, 2008, and remain available through September 30, 2009: Provided, That of the amount available for subpart 2 of part A of title IV of the ESEA, $850,000 shall be used to continue the National Recognition Awards program under the same guidelines outlined by section 120(f) of Public Law 105–244: Provided further, That $300,000,000 shall be available for subpart 1 of part A of title IV and $222,112,000 shall be available for subpart 2 of part A of title IV, of which not less than $1,000,000, to remain available until expended, shall be for the Project School Emergency Response to Violence program to provide education-related services to local educational agencies in which the learning environment has been disrupted due to a violent or traumatic crisis: Provided further, That $145,000,000 shall be available to carry out part D of title V of the ESEA: Provided further, That of the funds available to carry out subpart 3 of part C of title II, up to $12,000,000 may be used to carry out section 2345 and $3,000,000 shall be used to implement a comprehensive program to improve public knowledge, understanding and support of the Congress and the State legislatures.

ENGLISH LANGUAGE ACQUISITION

For carrying out part A of title III of the ESEA, $670,819,000, which shall become available on July 1, 2008, and shall remain available through September 30, 2009, except that 6.5 percent of such amount shall be available on October 1, 2007, and shall remain available through September 30, 2009, to carry out activities under section 3111(c)(1)(C).

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act (IDEA) and the Special Olympics Sport and Empowerment Act of 2004, $12,330,374,000, of which $6,192,551,000 shall become available on July 1, 2008, and shall remain available through September 30, 2009, and of which $5,924,200,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009, for academic year 2008–2009: Provided, That $13,000,000 shall be for Recording for the Blind and Dyslexic, Inc., to support activities under section 674(c)(1)(D) of the IDEA: Provided further, That $1,500,000 shall be for the recipient of funds provided by Public Law 105–78 under section 687(b)(2)(G) of the IDEA (as in effect prior to the enactment of the Individuals with Disabilities Education Improvement Act of 2004) to provide information on diagnosis, intervention, and teaching strategies for children with disabilities: Provided further, That the amount for section 611(b)(2) of the IDEA shall be equal to the lesser of the amount available for that activity during fiscal year 2007, increased by the amount of inflation as specified in section 619(d)(2)(B) of the IDEA, or the percentage increase in the funds appropriated under section 611(i) of the IDEA: Provided further, That nothing in section 674(e) of the IDEA shall be construed to establish a private right of action against the National Instructional Materials Access Center for failure to perform the duties of such center or otherwise authorize a private right of action related to the performance of such center: Provided further, That $3,000,000 shall be available to support the Special Olympics Winter World Games.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998 (''the AT Act''), and the Helen Keller National Center Act, $3,286,942,000, of which $1,000,000 shall be awarded to the American Academy of Orthotists and Prosthetists for activities that further the purposes of the grant received by the Academy for the period beginning October 1, 2003, including activities to meet the demand for orthotic and prosthetic provider services and improve patient care: Provided, That $32,000,000 shall be used for carrying out the AT Act, including $26,377,000 for State grant activities authorized under section 4 of the AT Act, $4,570,000 for State grants for protection and advocacy under section 5 of the AT Act and $1,053,000 shall be for technical assistance activities under section 6 of the AT Act: Provided further, That $2,650,000 of the funds for section 303 of the Rehabilitation Act of 1973 shall be available for the projects and in the amounts specified in the committee report of the Senate accompanying this Act: Provided further, That $8,400,000 shall be used to carry out the Traumatic Brain Injury (TBI) Model Systems of Care Program and to sustain at least 16 TBI Model Systems Centers.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $22,000,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $59,000,000, of which $1,705,000 shall be for construction and shall remain available until expended: Provided, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $111,000,000, of which $600,000 shall be for the Secretary of Education to carry out section 205 of the Act: Provided, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

CAREER, TECHNICAL, AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Career and Technical Education Act of 2006, the Adult Education and Family Literacy Act, and title VIII–D of the Higher Education Amendments of 1998, $1,894,788,000, of which $1,103,788,000 shall become available on July 1, 2008, and shall remain available through September 30, 2009, and of which $791,000,000 shall become available on October 1, 2008, and shall remain available through September 30, 2009: Provided, That of the amount provided for Adult Education State Grants, $67,896,000 shall be made available for integrated English literacy and civics education

services to immigrants and other limited English proficient populations: Provided further, That of the amount reserved for integrated English literacy and civics education, notwithstanding section 211 of the Adult Education and Family Literacy Act, 65 percent shall be allocated to States based on a State's absolute need as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years, and 35 percent allocated to States that experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available, except that no State shall be allocated an amount less than $60,000: Provided further, That of the amounts made available for the Adult Education and Family Literacy Act, $7,000,000 shall be for national leadership activities under section 243 and $6,638,000 shall be for the National Institute for Literacy under section 242: Provided further, That $22,770,000 shall be for Youth Offender Grants.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, $16,368,883,000, which shall remain available through September 30, 2009.

The maximum Pell Grant for which a student shall be eligible during award year 2008–2009 shall be $4,310.

STUDENT AID ADMINISTRATION

For Federal administrative expenses to carry out part D of title I, and subparts 1, 3, and 4 of part A, and parts B, C, D, and E of title IV of the Higher Education Act of 1965, as amended, $708,216,000, which shall remain available until expended.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles II, III, IV, V, VI, and VII of the Higher Education Act of 1965 (''HEA''), as amended, the Mutual Educational and Cultural Exchange Act of 1961, and section 117 of the Carl D. Perkins Career and Technical Education Act of 2006, $2,028,302,000: Provided, That $9,699,000, to remain available through September 30, 2009, shall be available to fund fellowships for academic year 2009–2010 under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: Provided further, That $970,000 is for data collection and evaluation activities for programs under the HEA, including such activities needed to comply with the Government Performance and Results Act of 1993: Provided further, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international development: Provided further, That of the funds referred to in the preceding proviso up to 1 percent may be used for program evaluation, national outreach, and information dissemination activities: Provided further, That the funds provided for title II of the HEA shall be allocated notwithstanding section 210 of such Act: Provided further, That $12,000,000 shall be for grants to institutions of higher education, in partnership with local educational agencies, to establish instructional programs at all educational levels in languages critical to U.S. national security: Provided further, That $59,855,000 of the funds for part B of title VII of the Higher Education Act of 1965 shall be available for the projects and in the amounts specified in the committee report of the Senate accompanying this Act.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $237,392,000, of which not less than $3,526,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses to carry out activities related to existing facility loans pursuant to section 121 of the Higher Education Act of 1965, as amended $481,000.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act of 1965, as amended, $188,000.

INSTITUTE OF EDUCATION SCIENCES

For carrying out activities authorized by the Education Sciences Reform Act of 2002, as amended, the National Assessment of Educational Progress Authorization Act, section 208 of the Educational Technical Assistance Act of 2002, and section 664 of the Individuals with Disabilities Education Act, $589,826,000, of which $322,020,000 shall be available until September 30, 2009.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $432,631,000, of which $3,000,000, to remain available until expended, shall be for building alterations and related expenses for the move of Department staff to the Mary E. Switzer building in Washington, DC: Provided, That the Secretary of Education shall assess the impact on education felt by students in states with a high proportion of federal land compared to students in non-public land states. The study shall consider current student teacher ratios, trends in student teacher ratios, the proportion of property tax dedicated to education in each State, and the impact of these and other factors on education in public land states. The Secretary shall submit the report not later than 1 year after the date of the enactment of this Act.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $93,771,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $54,239,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated in this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 305. None of the funds made available in this Act may be used to promulgate, implement, or enforce any revision to the regulations in effect under section 496 of the Higher Education Act of 1965 on June 1, 2007, until legislation specifically requiring such revision is enacted.

SEC. 306. (a) Notwithstanding section 8013(9)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)(B)), North Chicago Community Unit School District 187, North Shore District 112, and Township High School District 113 in Lake County, Illinois, and Glenview Public School District 34 and Glenbrook High School District 225 in Cook County, Illinois, shall be considered local educational agencies as such term is used in and for purposes of title VIII of such Act.

(b) Notwithstanding any other provision of law, federally connected children (as determined under section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a))) who are in attendance in the North Shore District 112, Township High School District 113, Glenview Public School District 34, and Glenbrook High School District 225 described in subsection (a), shall be considered to be in attendance in the North Chicago Community Unit School District 187 described in subsection (a) for purposes of computing the amount that the North Chicago Community Unit School District 187 is eligible to receive under subsection (b) or (d) of such section if—

(1) such school districts have entered into an agreement for such students to be so considered and for the equitable apportionment among all such school districts of any amount received by the North Chicago Community Unit School District 187 under such section; and

(2) any amount apportioned among all such school districts pursuant to paragraph (1) is used by such school districts only for the direct provision of educational services.

SEC. 307. Notwithstanding any other provision of this Act, $2,000,000 shall be available for the Underground Railroad Educational and Cultural Program. Amounts appropriated under title III for administrative expenses shall be reduced on a pro rata basis by $2,000,000.

SEC. 308. No funds appropriated under this Act may be used by the Secretary of Education to promulgate, implement, or enforce the evaluation for the Upward Bound Program as announced in the Notice of Final Priority published at 71 Fed. Reg. 55447–55450 (Sept. 22, 2006), until after the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives have thoroughly examined such regulation in concert with the reauthorization of the Higher Education Act of 1965.

SEC. 309. Notwithstanding any other provision of this Act, the Secretary of Education shall,

not later than September 30, 2008, submit to the appropriate committees of Congress and post on the Internet website of the Department of Education, a report concerning—

(1) the total number of Department of Education employees, including employees who salaries are paid by the Department but are employed by contractors or grantees of the Department;

(2) the total number, and percentage, of such employees who have previously worked in a classroom as a teacher or a teacher's assistant;

(3) of the employees who have worked in a classroom, the average number of years of time spent as an instructor;

(4) the total dollar amount, and overall percentage of the Department of Education funding, that is expended—

(A) in the classroom;

(B) on student tuition assistance;

(C) on overhead and administrative costs and expenses; and

(D) on Congressionally directed spending items, including the administrative costs of administering such earmarks; and

(5) a listing of all of the programs run by the Department of Education and the total budget and most recent evaluation of each such program, and a notation if no such evaluation has been conducted.

SEC. 310. SENSE OF THE SENATE REGARDING SCIENCE TEACHING AND ASSESSMENT. (a) FINDINGS.—The Senate finds that there is broad agreement in the scientific community that learning science requires direct involvement by students in scientific inquiry and that such direct involvement must be included in every science program for every science student in prekindergarten through grade 16.

(b) SENSE OF THE SENATE REGARDING THE NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS 2009 SCIENCE TEST.—It is the sense of the Senate that—

(1) the National Assessment of Educational Progress (NAEP) 2009 Science assessment should reflect the findings of the Senate described in subsection (a) and those expressed in section 7026(a) of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act; and

(2) the National Assessment Governing Board (NAGB) should certify that the National Assessment of Education Progress 2009 Science framework, specification, and assessment include extensive and explicit attention to inquiry.

(c) REPORT.—The National Assessment Governing Board shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate describing whether the certification described in subsection (b)(2) has been made, and if such certification has been made, include in the report the following:

(1) A description of the analysis used to arrive at such certification.

(2) A list of individuals with experience in inquiry science education making the certification.

SEC. 311. (a) In addition to amounts otherwise appropriated under this Act, there are appropriated, out of any money in the Treasury not otherwise appropriated—

(1) $6,000,000 to carry out the programs for baccalaureate degrees in science, technology, engineering, mathematics, or critical foreign languages, with concurrent teacher certification under section 6113 of the America COMPETES Act (Public Law 110–69); and

(2) $4,000,000 to carry out the programs for master's degrees in science, technology, engineering, and mathematics, or critical foreign language education under section 6114 of the America COMPETES Act (Public Law 110–69).

(b) Notwithstanding any other provision of this Act, amounts made available under this Act for the administration and related expenses for the departmental management of the Department of Education, shall be reduced by $10,000,000.

SEC. 312. (a) The Secretary of Education shall update the 2002 Department of Education and United States Secret Service guidance entitled ''Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates'' to reflect the recommendations contained in the report entitled ''Report to the President On Issues Raised by the Virginia Tech Tragedy'', to include the need to provide schools with guidance on how information can be shared legally under the regulations issued under section 264(c) of the Health Insurance Portability and Accountability Act and the Family Educational Rights and Privacy Act.

(b) Not later than 3 months after the date of enactment of this Act, the Secretary of Education shall disseminate the updated guidance under subsection (a) to institutions of higher education and to State departments of education for distribution to all local education agencies.

SEC. 313. (a) Not later than May 31, 2009, the Comptroller General of the United States shall submit a report to Congress on the strategies utilized to assist students in meeting State student academic achievement standards, including achieving proficiency on State academic assessments.

(b) The report required under subsection (a) shall include data collected from a representative sample of schools across the Nation to determine the strategies utilized by schools to prepare students to meet State student academic achievement standards and achieve proficiency on State academic assessments, including the following categories of strategies:

(1) Adjusting the structure of the school day, which may include the expansion of the school day, or modifications in the time spent on instruction in core academic subjects.

(2) The professional development provided to teachers or additional school personnel to assist low-performing students.

(3) Changes in the provision of instruction to students, including targeting low-performing students for specialized instruction or tutoring.

(4) Utilizing types of instructional materials to prepare students.

(5) Instituting other State or local assessments.

(6) Using other strategies to prepare students to meet State student academic achievement standards and achieve proficiency on State academic assessments.

(c) The data collected pursuant to this section shall be disaggregated by—

(1) schools with a high percentage of students eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(2) schools with a low percentage of students eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(3) schools with a student enrollment consisting of a majority of racial and ethnic minority students;

(4) schools with a student enrollment consisting of a majority of non-minority students;

(5) urban schools;

(6) suburban schools;

(7) rural schools; and

(8) schools identified as in need of improvement under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316).

(d) The representative sample described in subsection (b) shall be designed in such a manner as to provide valid, reliable, and accurate information as well as sufficient sample sizes for each type of school described in subsection (c).

(e) The data collected under subsection (b) shall be reported separately for the most common types of strategies, in each of the categories listed in paragraphs (1) through (6) of subsection (b), used by schools to prepare students to meet State student academic achievement standards, including achieving proficiency on State academic assessments.

SEC. 314. Prior to January 1, 2008, the Secretary of Education may not terminate any voluntary flexible agreement under section 428A of the Higher Education Act of 1965 (20 U.S.C. 1078–1) that exists on the date of enactment of this Act. With respect to an entity with which the Secretary of Education has a voluntary flexible agreement under section 428A of the Higher Education Act of 1965 (20 U.S.C. 1078–1) on the date of enactment of this Act that is not cost neutral, if the Secretary terminates such agreement after January 1, 2008, the Secretary of Education shall, not later than December 31, 2008, negotiate to enter, and enter, into a new voluntary flexible agreement with such entity so that the agreement is cost neutral, unless such entity does not want to enter into such agreement.

This title may be cited as the ''Department of Education Appropriations Act, 2008''.

TITLE IV

RELATED AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For expenses necessary of the Committee for Purchase From People Who Are Blind or Severely Disabled established by Public Law 92–28, $4,994,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS, OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service to carry out the programs, activities, and initiatives under provisions of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.) (the 1973 Act) and the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) (the 1990 Act), $804,489,000: Provided, That all prior year unobligated balances from the ''Domestic Volunteer Service Programs, Operating Expenses'' account shall be transferred to and merged with this appropriation: Provided further, That up to one percent of program grant funds may be used to defray costs of conducting grant application reviews, including the use of outside peer reviewers: Provided further, That none of the funds made available to the Corporation for National and Community Service in this Act for activities authorized by section 122 of part C of title I and part E of title II of the Domestic Volunteer Service Act of 1973 shall be used to provide stipends or other monetary incentives to program participants whose incomes exceed 125 percent of the national poverty level: Provided further, That not more than $275,775,000 of the amount provided under this heading shall be available for grants under the National Service Trust Program authorized under subtitle C of title I of the 1990 Act (42 U.S.C. 12571 et seq.) (relating to activities of the AmeriCorps program), including grants to organizations operating projects under the AmeriCorps Education Awards Program (without regard to the requirements of sections 121(d) and (e), section 131(e), section 132, and sections 140(a), (d), and (e) of the 1990 Act: Provided further, That not less than $117,720,000 of the amount provided under this heading, to remain available without fiscal year limitation, shall be transferred to the National Service Trust for educational awards authorized under subtitle D of title I of the 1990 Act (42 U.S.C. 12601), of which up to $4,000,000 shall be available to support national service scholarships for high school students performing community service, and of which $7,000,000 shall be held in reserve as defined in Public Law 108–45: Provided further, That in addition to amounts otherwise provided to the National Service Trust under the fifth proviso, the Corporation may transfer

funds from the amount provided under the fourth proviso, to the National Service Trust authorized under subtitle D of title I of the 1990 Act (42 U.S.C. 12601) upon determination that such transfer is necessary to support the activities of national service participants and after notice is transmitted to Congress: Provided further, That of the amount provided under this heading for grants under the National Service Trust program authorized under subtitle C of title I of the Act, not more than $65,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): Provided further, That notwithstanding section 501(a)(4) of the Act, of the funds provided under this heading, not more than $12,516,000 shall be made available to provide assistance to State commissions on national and community service under section 126(a) of the 1990 Act: Provided further, That not more than $10,466,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the 1990 Act (42 U.S.C. 12853 et seq.): Provided further, That notwithstanding subtitle H of title I of the 1990 Act (42 U.S.C. 12853), none of the funds provided under the previous proviso shall be used to support salaries and related expenses (including travel) attributable to Corporation employees: Provided further, That $31,789,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the 1990 Act (42 U.S.C. 12611 et seq.), of which not less than $5,000,000 shall be for the acquisition, renovation, equipping and startup costs for a campus located in Vinton, Iowa and a campus in Vicksburg, Mississippi.

SALARIES AND EXPENSES

For necessary expenses of administration as provided under section 501(a)(4) of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) and under section 504(a) of the Domestic Volunteer Service Act of 1973, including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, the employment of experts and consultants authorized under 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $69,520,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $6,900,000.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding any other provision of law, the term ''qualified student loan'' with respect to national service education awards shall mean any loan determined by an institution of higher education to be necessary to cover a student's cost of attendance at such institution and made, insured, or guaranteed directly to a student by a State agency, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

Notwithstanding any other provision of law, funds made available under section 129(d)(5)(B) of the National and Community Service Act to assist entities in placing applicants who are individuals with disabilities may be provided to any entity that receives a grant under section 121 of the Act.

The Inspector General of the Corporation for National and Community Service shall conduct random audits of the grantees that administer activities under the AmeriCorps programs and shall levy sanctions in accordance with standard Inspector General audit resolution procedures which include, but are not limited to, debarment of any grantee (or successor in interest or any entity with substantially the same person or persons in control) that has been determined to have committed any substantial violations of the requirements of the AmeriCorps programs, including any grantee that has been determined to have violated the prohibition of using Federal funds to lobby the Congress: Provided, That the Inspector General shall obtain reimbursements in the amount of any misused funds from any grantee that has been determined to have committed any substantial violations of the requirements of the AmeriCorps programs.

For fiscal year 2008, the Corporation shall make any significant changes to program requirements or policy only through public notice and comment rulemaking. For fiscal year 2008, during any grant selection process, no officer or employee of the Corporation shall knowingly disclose any covered grant selection information regarding such selection, directly or indirectly, to any person other than an officer or employee of the Corporation that is authorized by the Corporation to receive such information.

Except as expressly provided herein, not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the Corporation in this Act may be transferred between activities identified under this heading in the committee report accompanying this Act, but no such activity shall be increased by more than 3 percent by any such transfer: Provided, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2010, $420,000,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: Provided further, That for fiscal year 2008, in addition to the amounts provided above, $29,700,000 shall be for costs related to digital program production, development, and distribution, associated with the transition of public broadcasting to digital broadcasting, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives: Provided further, That for fiscal year 2008, in addition to the amounts provided above, $26,750,000 shall be for the costs associated with replacement and upgrade of the public radio interconnection system: Provided further, That none of the funds made available to the Corporation for Public Broadcasting by this Act, Public Law 108–199 or Public Law 108–7, shall be used to support the Television Future Fund or any similar purpose.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $44,450,000, including $400,000, to remain available through September 30, 2009, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): Provided, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: Provided further, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: Provided further, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $8,096,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM AND LIBRARY SERVICES: GRANTS AND ADMINISTRATION

For carrying out the Museum and Library Services Act of 1996, $266,680,000: Provided, That $8,680,000 shall be available for the projects and in the amounts specified in the committee report of the Senate accompanying this Act: Provided further, That funds may be made available for grants to Federal commissions that support museum and library activities, in partnership with libraries and museums that are eligible for funding under programs carried out by the Institute of Museum and Library Services.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, $10,748,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For close out activities of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended), $400,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $3,113,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $256,988,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $12,992,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $10,696,000.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $79,000,000, which shall include amounts becoming available in fiscal year 2008 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $97,000,000: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $150,000, to remain available through September 30, 2009, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $103,694,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $8,000,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: Provided, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office: Provided further, That funds made available under the heading in this Act, or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be used for any audit, investigation, or review of the Medicare Program.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $28,140,000.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $26,959,000,000, to remain available until expended: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2009, $14,800,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $15,000 for official reception and representation expenses, not more than $9,372,953,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: Provided, That not less than $2,000,000 shall be for the Social Security Advisory Board: Provided further, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2008 not needed for fiscal year 2008 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: Provided further, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made.

From funds provided under the first paragraph, not less than $263,970,000 shall be available for conducting continuing disability reviews under titles II and XVI of the Social Security Act and for conducting redeterminations of eligibility under title XVI of the Social Security Act.

In addition to amounts made available above, and subject to the same terms and conditions, $213,000,000 shall be available for additional continuing disability reviews and redeterminations of eligibility.

In addition, $135,000,000 to be derived from administration fees in excess of $5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93–66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 2008 exceed $135,000,000, the amounts shall be available in fiscal year 2009 only to the extent provided in advance in appropriations Acts.

In addition, up to $1,000,000 to be derived from fees collected pursuant to section 303(c) of the Social Security Protection Act (Public Law 108–203), which shall remain available until expended.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $28,000,000, together with not to exceed $68,047,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the ''Limitation on Administrative Expenses'', Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: Provided, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

TITLE V

GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: Provided, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed $28,000 and $20,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $5,000 from the funds available for ''Salaries and expenses, Federal Mediation and Conciliation Service''; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $5,000 from funds available for ''Salaries and expenses, National Mediation Board''.

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state—

(1) the percentage of the total costs of the program or project which will be financed with Federal money;

(2) the dollar amount of Federal funds for the project or program; and

(3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

SEC. 507. (a) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion.

(b) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term ''health benefits coverage'' means the package of services covered by a managed

care provider or organization pursuant to a contract or other arrangement.

SEC. 508. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

(d)(1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(2) In this subsection, the term ''health care entity'' includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

SEC. 509. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term ''human embryo or embryos'' includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 510. (a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 511. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d–2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 513. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 514. None of the funds made available by this Act to carry out the Library Services and Technology Act may be made available to any library covered by paragraph (1) of section 224(f) of such Act (20 U.S.C. 9134(f)), as amended by the Children's Internet Protections Act, unless such library has made the certifications required by paragraph (4) of such section.

SEC. 515. None of the funds made available by this Act to carry out part D of title II of the Elementary and Secondary Education Act of 1965 may be made available to any elementary or secondary school covered by paragraph (1) of section 2441(a) of such Act (20 U.S.C. 6777(a)), as amended by the Children's Internet Protections Act and the No Child Left Behind Act, unless the local educational agency with responsibility for such covered school has made the certifications required by paragraph (2) of such section.

SEC. 516. None of the funds appropriated in this Act may be used to enter into an arrangement under section 7(b)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)) with a nongovernmental financial institution to serve as disbursing agent for benefits payable under the Railroad Retirement Act of 1974.

SEC. 517. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that—

(1) creates new programs;

(2) eliminates a program, project, or activity;

(3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;

(4) relocates an office or employees;

(5) reorganizes or renames offices;

(6) reorganizes programs or activities; or

(7) contracts out or privatizes any functions or activities presently performed by Federal employees;

unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that—

(1) augments existing programs, projects (including construction projects), or activities;

(2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress;

unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

SEC. 518. (a) None of the funds made available in this Act may be used to request that a candidate for appointment to a Federal scientific advisory committee disclose the political affiliation or voting history of the candidate or the position that the candidate holds with respect to political issues not directly related to and necessary for the work of the committee involved.

(b) None of the funds made available in this Act may be used to disseminate scientific information that is deliberately false or misleading.

SEC. 519. The Secretaries of Labor, Health and Human Services, and Education shall each prepare and submit to the Committees on Appropriations of the Senate and of the House of Representatives a report on the number and amount of contracts, grants, and cooperative agreements exceeding $100,000 in value and awarded by the Department on a non-competitive basis during each quarter of fiscal year 2008, but not to include grants awarded on a formula basis. Such report shall include the name of the contractor or grantee, the amount of funding, and the governmental purpose. Such report shall be transmitted to the Committees within 30 days after the end of the quarter for which the report is submitted.

SEC. 520. Not later than 30 days after the date of enactment of this Act, the Departments, agencies, and commissions funded under this Act, shall establish and maintain on the homepages of their Internet websites—

(1) a direct link to the Internet websites of their Offices of Inspectors General; and

(2) a mechanism on the Offices of Inspectors General website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to those Departments, agencies, and commissions.

SEC. 521. None of the funds made available under this Act may be used to circumvent any statutory or administrative formula-driven or competitive awarding process to award funds to a project in response to a request from a Member of Congress (or any employee of a Member or committee of Congress), unless the specific project has been disclosed in accordance with the rules of the Senate or House of Representatives, as applicable.

SEC. 522. (a) Notwithstanding any other provision of this Act, none of the funds made available under the heading ''OFFICE OF MUSEUM AND LIBRARY SERVICES: GRANTS AND ADMINISTRATION'' under the heading ''INSTITUTE OF MUSEUM AND LIBRARY SERVICES'' in title IV may be used for the Bethel Performing Arts Center.

(b) The amount made available under the heading ''OFFICE OF MUSEUM AND LIBRARY SERVICES: GRANTS AND ADMINISTRATION'' under the heading ''INSTITUTE OF MUSEUM AND LIBRARY SERVICES'' in title IV is reduced by $1,000,000, and the amount made available under the heading ''HEALTH RESOURCES AND SERVICES'' under the heading ''HEALTH RESOURCES AND SERVICES ADMINISTRATION'' in title II is increased by $336,500, which $336,500 shall be used to carry out title V of the Social Security Act (42 U.S.C. 701 et seq.), in order to provide additional funding for the maternal and child health services program carried out under that title.

SEC. 523. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than $5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that, to the best of its knowledge and belief, the contractor or grantee has filed all Federal tax returns required during the three years preceding the certification, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has not, more than 90 days

prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

SEC. 524. (a) Notwithstanding any other provision of this Act, the amount appropriated under the heading ''LIMITATION ON ADMINISTRATIVE EXPENSES'' under the heading ''SOCIAL SECURITY ADMINISTRATION'' shall be increased by $150,000,000.

(b) Section 1848(l)(2)(A) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)(A)), as amended by section 6 of the TMA, Abstinence Education, and QI Programs Extension Act of 2007 (Public Law 110–90), is amended by striking ''$1,350,000,000'' and inserting ''$1,200,000,000, but in no case shall expenditures from the Fund in fiscal year 2008 exceed $650,000,000'' in the first sentence.

SEC. 525. (a) The Comptroller General of the United States shall conduct a study to evaluate the Social Security Administration's plan to reduce the hearing backlog for disability claims at the Social Security Administration and the Social Security Administration's current and planned initiatives to improve the disability process, as contained in the report submitted to the Senate on September 13, 2007, pursuant to Senate Report 110–107.

(b) Not later than 5 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a), together with such recommendations as the Comptroller General determines appropriate.

SEC. 526. Not later than 9 months after the date of enactment of this Act, the Government Accountability Office shall submit a report to Congress that contains an assessment of the process for hiring and managing administrative law judges and makes recommendations on ways to improve the hiring and management of administrative law judges.

SEC. 527. None of the funds appropriated or otherwise made available in this Act or any other Act making appropriations to the agencies funded by this Act may be used to close or otherwise cease to operate the field office of the Social Security Administration located in Bristol, Connecticut, before the date on which the Commissioner of Social Security submits to the appropriate committees of Congress a comprehensive and detailed report outlining and justifying the process for selecting field offices to be closed. Such report shall include—

(1) a thorough analysis of the criteria used for selecting field offices for closure and how the Commissioner of Social Security analyzes and considers factors relating to transportation and communication burdens faced by elderly and disabled citizens as a result of field office closures, including the extent to which elderly citizens have access to, and competence with, online services; and

(2) for each field office proposed to be closed during fiscal year 2007 or 2008, including the office located in Bristol, Connecticut, a thorough cost-benefit analysis for each such closure that takes into account—

(A) the savings anticipated as a result of the closure;

(B) the anticipated burdens placed on elderly and disabled citizens; and

(C) any costs associated with replacement services and provisional contact stations.

SEC. 528. Notwithstanding any other provision of this Act, none of the funds appropriated in this Act may be allocated, directed, or otherwise made available to cities that provide safe haven to illegal drug users through the use of illegal drug injection facilities.

SEC. 529. Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act (8 U.S.C. 1157) for a period not to exceed 6 months.

SEC. 530. None of the funds appropriated by this Act may be used by the Commissioner of Social Security or the Social Security Administration to pay the compensation of employees of the Social Security Administration to administer Social Security benefit payments, under any agreement between the United States and Mexico establishing totalization arrangements between the social security system established by title II of the Social Security Act and the social security system of Mexico, which would not otherwise be payable but for such agreement.

SEC. 531. None of the funds appropriated in this Act shall be expended or obligated by the Commissioner of Social Security, for purposes of administering Social Security benefit payments under title II of the Social Security Act, to process claims for credit for quarters of coverage based on work performed under a social security account number that was not the claimant's number which is an offense prohibited under section 208 of the Social Security Act (42 U.S.C. 408).

SEC. 532. AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.—(a) SHORT TITLE.—This section may be cited as the ''American Competitiveness Scholarship Act of 2007''.

(b) ESTABLISHMENT.—The Director of the National Science Foundation (referred to in this section as the ''Director'') shall award scholarships to eligible individuals to enable such individuals to pursue associate, undergraduate, or graduate level degrees in mathematics, engineering, health care, or computer science.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a scholarship under this section, an individual shall—

(A) be a citizen of the United States, a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))), an alien admitted as a refugee under section 207 of such Act (8 U.S.C. 1157), or an alien lawfully admitted to the United States for permanent residence;

(B) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

(C) certify to the Director that the individual intends to use amounts received under the scholarship to enroll or continue enrollment at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in order to pursue an associate, undergraduate, or graduate level degree in mathematics, engineering, computer science, nursing, medicine, or other clinical medical program, or technology, or science program designated by the Director.

(2) ABILITY.—Awards of scholarships under this section shall be made by the Director solely on the basis of the ability of the applicant, except that in any case in which 2 or more applicants for scholarships are deemed by the Director to be possessed of substantially equal ability, and there are not sufficient scholarships available to grant one to each of such applicants, the available scholarship or scholarships shall be awarded to the applicants in a manner that will tend to result in a geographically wide distribution throughout the United States of recipients' places of permanent residence.

(d) AMOUNT OF SCHOLARSHIP; RENEWAL.—

(1) AMOUNT OF SCHOLARSHIP.—The amount of a scholarship awarded under this section shall be $15,000 per year, except that no scholarship shall be greater than the annual cost of tuition and fees at the institution of higher education in which the scholarship recipient is enrolled or will enroll.

(2) RENEWAL.—The Director may renew a scholarship under this section for an eligible individual for not more than 4 years.

(e) FUNDING.—The Director shall carry out this section only with funds made available under section 286(w) of the Immigration and Nationality Act, as added by subsection (g).

(f) FEDERAL REGISTER.—Not later than 60 days after the date of the enactment of this Act, the Director shall publish in the Federal Register a list of eligible programs of study for a scholarship under this section.

(g) SUPPLEMENTAL H–1B NONIMMIGRANT PETITIONER ACCOUNT; GIFTED AND TALENTED STUDENTS EDUCATION ACCOUNT.—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

''(w) SUPPLEMENTAL H–1B NONIMMIGRANT PETITIONER ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Supplemental H–1B Nonimmigrant Petitioner Account'. Notwithstanding any other section of this Act, there shall be deposited as offsetting receipts into the account 85.75 percent of the fees collected under section 214(c)(15)(B).

''(2) USE OF FEES FOR AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.—The amounts deposited into the Supplemental H–1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for scholarships described in the American Competitiveness Scholarship Act of 2007 for students enrolled in a program of study leading to a degree in mathematics, engineering, health care, or computer science.

''(x) GIFTED AND TALENTED STUDENTS EDUCATION ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Gifted and Talented Students Education Account'. There shall be deposited as offsetting receipts into the account 14.25 percent of the fees collected under section 214(c)(15)(B).

''(2) USE OF FEES.—Amounts deposited into the account established under paragraph (1) shall remain available to the Secretary of Education until expended for programs and projects authorized under the Jacob K. Javits Gifted and Talented Students Education Act of 2001 (20 U.S.C. 7253 et seq.).''.

(h) SUPPLEMENTAL AND DEFICIT REDUCTION FEES.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(15)(A) Except as provided under subparagraph (D), if the Attorney General, the Secretary of Homeland Security, or the Secretary of State is required to impose a fee pursuant to paragraph (9) or (11), the Attorney General, the Secretary of Homeland Security, or the Secretary of State, as appropriate, shall impose a supplemental fee and a deficit reduction fee on the employer in addition to any other fee required by such paragraph or any other provision of law, in the amounts determined under subparagraph (B).

''(B) The amount of the supplemental fee shall be $3,500, except that the fee shall be ½ that amount for any employer with not more than 25 full-time equivalent employees who are employed in the United States (determined by including any affiliate or subsidiary of such employer).

''(C) Of the amounts collected under subparagraph (B)—

''(i) 85.75 percent shall be deposited in the Treasury in accordance with section 286(w); and

''(ii) 14.25 percent shall be deposited in the Treasury in accordance with section 286(x).

''(D) Public hospitals, which are owned and operated by a State or a political subdivision of a State shall not be subject to the supplemental fees imposed under this paragraph.''.

SEC. 533. Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended—

(1) in paragraph (1)—

(A) by inserting ''1996, 1997,'' after ''available in fiscal year''; and

(B) by inserting ''group I,'' after ''schedule A,'';

(2) in paragraph (2)(A), by inserting ''1996, 1997, and'' after ''available in fiscal years''; and

(3) by adding at the end the following:

''(4) PETITIONS.—The Secretary of Homeland Security shall provide a process for reviewing and acting upon petitions with respect to immigrants described in schedule A not later than 30 days after the date on which a completed petition has been filed.''.

SEC. 534. (a) FEE FOR RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), as amended by section 521, is further amended by adding at the end the following:

''(5) FEE FOR RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee upon each petitioning employer who uses a visa recaptured from fiscal years 1996 and 1997 under this subsection to provide employment for an alien as a professional nurse, provided that—

''(i) such fee shall be in the amount of $1,500 for each such alien nurse (but not for dependents accompanying or following to join who are not professional nurses); and

''(ii) no fee shall be imposed for the use of such visas if the employer demonstrates to the Secretary that—

''(I) the employer is a health care facility that is located in a county or parish that received individual and public assistance pursuant to Major Disaster Declaration number 1603 or 1607; or

''(II) the employer is a health care facility that has been designated as a Health Professional Shortage Area facility by the Secretary of Health and Human Services as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e).

''(B) FEE COLLECTION.—A fee imposed by the Secretary of Homeland Security pursuant to this paragraph shall be collected by the Secretary as a condition of approval of an application for adjustment of status by the beneficiary of a petition or by the Secretary of State as a condition of issuance of a visa to such beneficiary.''.

(b) CAPITATION GRANTS TO INCREASE THE NUMBER OF NURSING FACULTY AND STUDENTS; DOMESTIC NURSING ENHANCEMENT ACCOUNT.—Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

''SEC. 832. CAPITATION GRANTS.

''(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Health Resources and Services Administration, shall award a grant each fiscal year in an amount determined in accordance with subsection (c) to each eligible school of nursing that submits an application in accordance with this section.

''(b) PURPOSE.—A funding agreement for a grant under this section is that the eligible school of nursing involved will expend the grant to increase the number of nursing faculty and students at the school, including by hiring new faculty, retaining current faculty, purchasing educational equipment and audiovisual laboratories, enhancing clinical laboratories, repairing and expanding infrastructure, or recruiting students.

''(c) GRANT COMPUTATION.—

''(1) AMOUNT PER STUDENT.—Subject to paragraph (2), the amount of a grant to an eligible school of nursing under this section for a fiscal year shall be the total of the following:

''(A) $1,800 for each full-time or part-time student who is enrolled at the school in a graduate program in nursing that—

''(i) leads to a master's degree, a doctoral degree, or an equivalent degree; and

''(ii) prepares individuals to serve as faculty through additional course work in education and ensuring competency in an advanced practice area.

''(B) $1,405 for each full-time or part-time student who—

''(i) is enrolled at the school in a program in nursing leading to a bachelor of science degree, a bachelor of nursing degree, a graduate degree in nursing if such program does not meet the requirements of subparagraph (A), or an equivalent degree; and

''(ii) has not more than 3 years of academic credits remaining in the program.

''(C) $966 for each full-time or part-time student who is enrolled at the school in a program in nursing leading to an associate degree in nursing or an equivalent degree.

''(2) LIMITATION.—In calculating the amount of a grant to a school under paragraph (1), the Secretary may not make a payment with respect to a particular student—

''(A) for more than 2 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a master's degree or an equivalent degree;

''(B) for more than 4 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a doctoral degree or an equivalent degree;

''(C) for more than 3 fiscal years in the case of a student described in paragraph (1)(B); or

''(D) for more than 2 fiscal years in the case of a student described in paragraph (1)(C).

''(d) ELIGIBILITY.—In this section, the term 'eligible school of nursing' means a school of nursing that—

''(1) is accredited by a nursing accrediting agency recognized by the Secretary of Education;

''(2) has a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 3 academic years preceding submission of the grant application; and

''(3) has a graduation rate (based on the number of students in a class who graduate relative to, for a baccalaureate program, the number of students who were enrolled in the class at the beginning of junior year or, for an associate degree program, the number of students who were enrolled in the class at the end of the first year) of not less than 80 percent for each of the 3 academic years preceding submission of the grant application.

''(e) REQUIREMENTS.—The Secretary may award a grant under this section to an eligible school of nursing only if the school gives assurances satisfactory to the Secretary that, for each academic year for which the grant is awarded, the school will comply with the following:

''(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent.

''(2) The school will maintain a graduation rate (as described in subsection (d)(3)) of not less than 80 percent.

''(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students in the school will exceed such enrollment for the preceding academic year by 5 percent or 5 students, whichever is greater.

''(B) Subparagraph (A) shall not apply to the first academic year for which a school receives a grant under this section.

''(C) With respect to any academic year, the Secretary may waive application of subparagraph (A) if—

''(i) the physical facilities at the school involved limit the school from enrolling additional students; or

''(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the 2 preceding academic years.

''(4) Not later than 1 year after receiving a grant under this section, the school will formulate and implement a plan to accomplish at least 2 of the following:

''(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

''(B) Establishing cooperative intradisciplinary education among schools of nursing with a view toward shared use of technological resources, including information technology.

''(C) Establishing cooperative interdisciplinary training between schools of nursing and schools of allied health, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, public health, or veterinary medicine, including training for the use of the interdisciplinary team approach to the delivery of health services.

''(D) Integrating core competencies on evidence-based practice, quality improvements, and patient-centered care.

''(E) Increasing admissions, enrollment, and retention of qualified individuals who are financially disadvantaged.

''(F) Increasing enrollment of minority and diverse student populations.

''(G) Increasing enrollment of new graduate baccalaureate nursing students in graduate programs that educate nurse faculty members.

''(H) Developing post-baccalaureate residency programs to prepare nurses for practice in specialty areas where nursing shortages are most severe.

''(I) Increasing integration of geriatric content into the core curriculum.

''(J) Partnering with economically disadvantaged communities to provide nursing education.

''(K) Expanding the ability of nurse managed health centers to provide clinical education training sites to nursing students.

''(5) The school will submit an annual report to the Secretary that includes updated information on the school with respect to student enrollment, student retention, graduation rates, passage rates on the National Council Licensure Examination for Registered Nurses, the number of graduates employed as nursing faculty or nursing care providers within 12 months of graduation, and the number of students who are accepted into graduate programs for further nursing education.

''(6) The school will allow the Secretary to make on-site inspections, and will comply with the Secretary's requests for information, to determine the extent to which the school is complying with the requirements of this section.

''(f) REPORTS TO CONGRESS.—The Secretary shall evaluate the results of grants under this section and submit to Congress—

''(1) not later than 18 months after the date of the enactment of this section, an interim report on such results; and

''(2) not later than September 30, 2010, a final report on such results.

''(g) APPLICATION.—An eligible school of nursing seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts in the Domestic Nursing Enhancement Account, established under section 833, there are authorized to be appropriated such sums as may be necessary to carry out this section.

''SEC. 833. DOMESTIC NURSING ENHANCEMENT ACCOUNT.

''(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which shall be known as the 'Domestic Nursing Enhancement Account.' Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 106(d)(5) of the American Competitiveness in the Twenty-

first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note). Nothing in this subsection shall prohibit the depositing of other moneys into the account established under this section.

''(b) USE OF FUNDS.—Amounts collected under section 106(d)(5) of the American Competitiveness in the Twenty-first Century Act of 2000, and deposited into the account established under subsection (a) shall be used by the Secretary of Health and Human Services to carry out section 832. Such amounts shall be available for obligation only to the extent, and in the amount, provided in advance in appropriations Acts. Such amounts are authorized to remain available until expended.''.

(c) GLOBAL HEALTH CARE COOPERATION.—

(1) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended by inserting after section 317 the following:

''SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other health care worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

''(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

''(2) to meet the continuous residency requirements under section 316(b).

''(b) DEFINITIONS.—In this section:

''(1) CANDIDATE COUNTRY.—The term 'candidate country' means a country that the Secretary of State determines to be—

''(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

''(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

''(C) qualified to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

''(2) ELIGIBLE ALIEN.—The term 'eligible alien' means an alien who—

''(A) has been lawfully admitted to the United States for permanent residence; and

''(B) is a physician or other healthcare worker.

''(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

''(d) PUBLICATION.—The Secretary of State shall publish—

''(1) not later than 180 days after the date of the enactment of this section, a list of candidate countries;

''(2) an updated version of the list required by paragraph (1) not less often than once each year; and

''(3) an amendment to the list required by paragraph (1) at the time any country qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).''.

(2) RULEMAKING.—

(A) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall promulgate regulations to carry out the amendments made by this subsection.

(B) CONTENT.—The regulations promulgated pursuant to paragraph (1) shall—

(i) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by paragraph (1)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 24-month period, and shall permit the Secretary to extend such period for an additional period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(ii) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(iii) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) DEFINITION.—Section 101(a)(13)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding at the end the following: ''except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be absent from the United States under section 317A,''.

(B) DOCUMENTARY REQUIREMENTS.—Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by inserting '', including an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''101(a)(27)(A),''.

(C) INELIGIBLE ALIENS.—Section 212(a)(7)(A)(i)(I) of such Act (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by inserting ''other than an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''Act,''.

(D) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 317 the following:

''Sec. 317A. Temporary absence of aliens providing health care in developing countries.''.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to U.S. Citizenship and Immigration Services such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(d) ATTESTATION BY HEALTH CARE WORKERS.—

(1) ATTESTATION REQUIREMENT.—Section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following:

''(E) HEALTH CARE WORKERS WITH OTHER OBLIGATIONS.—

''(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other health care worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

''(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other health care worker in consideration for a commitment to work as a physician or other health care worker in the alien's country of origin or the alien's country of residence.

''(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

''(I) the obligation was incurred by coercion or other improper means;

''(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

''(III) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver.''.

(2) EFFECTIVE DATE; APPLICATION.—

(A) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(B) APPLICATION BY THE SECRETARY.—Not later than the effective date described in subparagraph (A), the Secretary of Homeland Security shall begin to carry out subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act, as added by paragraph (1), including the requirement for the attestation and the granting of a waiver described in clause (iii) of such subparagraph (E), regardless of whether regulations to implement such subparagraph have been promulgated.

SEC. 535. None of the funds made available under this Act may be used to purchase first class or premium airline travel that would not be consistent with sections 301–10.123 and 301–10.124 of title 41 of the Code of Federal Regulations.

This Act may be cited as the ''Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008''.

ESTABLISHING A DISABLED VETERANS MEMORIAL

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 363, H.R. 995.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 995) to amend Public Law 106–348 to extend the authorization for establishing a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the Armed Forces of the United States.

There being no objection, the Senate proceeded to consider the bill.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD, as if read, without further intervening action or debate.

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

The bill (H.R. 995) was ordered to a third reading, was read the third time, and passed.

MEASURE READ THE FIRST TIME—H.R. 3564

Mr. LAUTENBERG. Mr. President, I understand that H.R. 3564 has been received from the House and is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 3564) to amend title 5, United States Code, to authorize appropriations for the Administrative Conference of the United States through fiscal year 2011, and for other purposes.

Mr. LAUTENBERG. I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read a second time on the next legislative day.

ORDERS FOR THURSDAY, OCTOBER 25, 2007

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., on Thursday, October 25; that on Thursday, following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders reserved for their use later in the day; that the Senate then proceed to a period for the transaction of morning business for 60 minutes, with the time equally divided and controlled between the leaders or their designees, with Senators permitted to speak therein for 10 minutes each, with the majority controlling the first portion and the Republicans controlling the final portion; that at the close of morning business, the Senate resume consideration of S. 294, as provided for under a previous order.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LAUTENBERG. Mr. President, if there is no further business, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:45 p.m., adjourned until Thursday, October 25, 2007, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate Wednesday, October 24, 2007:

THE JUDICIARY

LESLIE SOUTHWICK, OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

EXTENSIONS OF REMARKS

IN HONOR OF CARNE C. CUNNINGHAM, UNITED STATES NAVY

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. SESSIONS. Madam Speaker, I rise today in honor of Carne C. Cunningham, a World War II veteran. He received his ensign commission in September 1943.

His military service began with his assignment to LST–291, a landing ship for tanks, where he served as the officer in charge of supplies in addition to his watch officer duties. On September 10, 1944, Carne was assigned as a division officer to a cargo personnel ship, the Auriga, where he served for the remainder of the war. He was involved in the invasion of Leyte, Lingayen Gulf, Luzon Island, the Philippine Islands, and Okinawa, where he witnessed the death and destruction of war.

World War II is known as the deadliest conflict in human history, taking the lives of over 70 million people. During this difficult time, our country stood united behind our brave servicemen and women who so willingly took to the battlefields to defend freedom and democracy. It is veterans like Carne that helped us emerge victorious from World War II and restore hope and humanity in a world that was shattered by the darkness of hatred and violence.

His patriotism, courage, and selflessness are an example of what make America great. Madam Speaker, I ask my esteemed colleagues to join me in expressing our deepest gratitude for his service to this great Nation. May God bless all those he loved, and may I convey to them my sincerest condolences and the gratitude of the American people.

RECOGNIZING THE UNVEILING OF A MONUMENT HONORING HAITIAN SOLDIERS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. RANGEL. Madam Speaker, I rise today to recognize the erection of a monument in Savannah, Georgia honoring the more than 500 Haitian soldiers who fought there during the Revolutionary War, and to introduce the accompanying New York CARIB News article, "Haitians in U.S. Revolution Get Monument," published on Oct. 16, 2007. This monument serves as a bronze testament to the oft-forgotten contributions Haitians made in that war.

Around 150 people attended the unveiling of the monument, which depicts four soldiers from that 545-man unit. Theirs was the largest unit in that Savannah battle and believed to be the largest grouping of black soldiers in the war. Soon after returning home, those Haitian veterans channeled that same spirit of rebellion to gain independence from the French in 1804.

In tribute to that integral thread in our American history, and in memory of their sacrifices to the cause of liberty, I submit news of this important symbol into the RECORD.

HAITIANS IN U.S. REVOLUTION GET MONUMENT

SAVANNAH, GA.—After 228 years as largely unsung contributors to American independence, Haitian soldiers who fought in the Revolution War's bloody siege of Savannah had a monument dedicated in their honor last Monday.

About 150 people, many of them Haitian-Americans who came to Savannah for the event, gathered in Franklin Square where life-size bronze statues of four soldiers now stand atop a granite pillar 6 feet tall and 16 feet in diameter.

This is a testimony to tell people we Haitians didn't come from the boat, said Daniel Fils-Aime, chairman of the Miami-based Haitian American Historical Society. We were here in 1779 to help America win independence. That recognition is overdue.

In October 1779, a force of more than 500 Haitian free Blacks joined American colonists and French troops in an unsuccessful push to drive the British from Savannah in coastal Georgia.

More than 300 allied soldiers were gunned down charging British fortifications Oct. 9, making the siege the second-most lopsided British victory of the war after Bunker Hill.

Though not well known in the U.S., Haiti's role in the American Revolution is a point of national pride for Haitians.

After returning home from the war, Haitian veterans soon led their own rebellion that won Haiti's independence from France in 1804.

Fils-Aime's group has spent the past seven years lobbying Savannah leaders to support the monument, which the city approved in 2005, and raising more than $400,000 in private donations to pay for it. Fils-Aime said the historical society still needs $250,000 more to finish two additional soldier statues.

As it stands now, the monument features life-size bronze statues of four soldiers and standing atop a granite pillar 6 feet tall and 16 feet in diameter.

The fourth statue, a drummer boy, depicts a young Henri Christophe, who served in Savannah as an adolescent and went to become Haiti's first president—and ultimately king—after it won independence.

Records show that 545 Haitian soldiers sailed to Savannah in 1779, making them the largest military unit of the Savannah battle. The Haitians are also believed to have been the largest black unit to serve in the American Revolution.

This is a testimony to tell people we Haitians didn't come from the boat, said Daniel Fils-Aime, chairman of the Miami-based Haitian American Historical Society, one of the many Haitian Americans who came to Savannah for the dedication.

We were here in 1779 to help American win independence. That recognition is overdue.

VIOLENT RADICALIZATION AND HOMEGROWN TERRORISM PREVENTION ACT OF 2007

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 2007

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today in strong support of H.R. 1955, the Violent Radicalization and Homegrown Terrorist Prevention Act of 2007, introduced by my distinguished colleague from California, Representative HARMAN. This important legislation recognizes the threat of homegrown terrorism and seeks to address this burgeoning problem while maintaining the civil rights and liberties of American citizens.

Since May of this year, two separate plots against strategic American targets have been foiled and prevented by American officials; what distinguishes them from previous terrorist plots against the United States is that the potential terrorists here had no support from Al-Qaeda or any other overseas terrorist cells. America must be unique in its approach to homegrown terrorism, given the civil rights and civil liberties protections that are unique to America and enjoyed by all American citizens.

As a senior Member of the Committee on Homeland Security and Chair of the Subcommittee on Transportation Security and Infrastructure, I believe we can secure our homeland and remain true to our values simultaneously. In our fights against global terrorism, it is critical that Muslim Americans continue to be our allies. The Muslim American Community has grown in size and prominence, and is an integral part of the fabric of this Nation. Muslim Americans share the same values and ideals that make this Nation great. Ideals such as discipline, generosity, peace and moderation.

Many years of civil rights jurisprudence and law have been ignored and thrown out the window when the racial profiling, harassment, and discrimination of Muslim and Arab Americans is permitted to occur with impunity. These practices show a reckless and utter disregard for the fundamental values on which our country is founded: namely, due process, the presumption of innocence, nondiscrimination, individualized rather than group suspicion, and equitable application of the law. We cannot allow xenophobia, prejudice, and bigotry to prevail, and eviscerate the Constitution we are bound to protect.

The securing of our homeland and protection of our national security is on the forefront of my agenda. However, using 9/11 as an impetus to engage in racial profiling, harassment, and discrimination of Muslim and Arab Americans is not only deplorable, it undermines our civil liberties and impedes our success in the global war on terror. We must fight our war on terror without compromising our freedoms and liberties.

It is precisely for these reasons that I so strongly support H.R. 1955. This Act calls for

the creation for the creation of the National Commission to examine the various causes of violent radicalization and homegrown terrorism in order to propose concrete and meaningful recommendations and legislative strategies in order to alleviate these threats. It also establishes a Center of Excellence for the Prevention of Radicalization and Home Grown Terrorism that will study the social, criminal, political, psychological and economic roots of the problem as well as provide homeland security officials across the government with suggestions for preventing radicalization and home grown terrorism.

Furthermore, it requires our homeland security officials to thoroughly examine the experiences of other nations that have experienced homegrown terrorism so that our government might learn from those experiences. As such, H.R. 1955 does more than merely address the current situation with regard to homegrown terrorism but also works to identify the causes behind the problem and address them as well.

I strongly urge my colleagues to join me in supporting this important legislation.

RECOGNIZING THE 62ND ANNIVERSARY OF THE UNITED NATIONS

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. POE. Madam Speaker, today we recognize the 62nd anniversary of the United Nations. The United Nations was founded in the aftermath of the Second World War. Leaders across the world came together to form this international organization with the hope that nations united in purpose might never again have to face the devastating consequences of a third World War. Since its inception, the mission of the United Nations has been focused on advancing the cause of fundamental human rights around the world. It is a noble cause.

Unfortunately, the lofty goals of this institution have been blemished by a record of past actions which challenge the U.N.'s very existence.

This year, Madam Speaker, I am serving as one of two Congressional Delegates to the United Nations. As a representative of the people I would be remiss, on this United Nations Day, if I did not address some of the concerns that Americans have with the United Nations. In a poll conducted last year by political consultant and pollster, Frank Luntz, 71 percent of Americans agreed that the U.N. is no longer effective and need to be reformed. In addition, the poll found that 75 percent of the participants agreed that the United Nations is no longer effective and needs to be held accountable. Most telling, for the first time since the U.N. was founded, a majority of Americans, 57 percent, believe that if the U.N. cannot be reformed it needs to be gotten rid of all together and replaced.

Like most Americans, Madam Speaker, I'm concerned with the ineffectiveness of the United Nations. I'm concerned with the anti-Semitic factions that exist within the U.N. I'm concerned with its hypocritical human rights record—claiming to preserve human rights, while not holding some of the world's worst human rights violators responsible. I'm concerned with the corruption of U.N. officials and mismanagement of U.N. programs. And I'm concerned with the United Nations inability to actually take a lead in fighting the threat of global terrorism.

If the United Nations expects the United States to support its mission, it had better take the concerns of the American people seriously and implement the reforms that are necessary to gain the trust of the American public.

And that's just the way it is.

TRIBUTE TO SHIRLEY L. JOHNSON

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. VAN HOLLEN. Madam Speaker, I rise to pay tribute to Shirley L. Johnson, a remarkable woman who has distinguished herself with a long and impressive record of dedicated public service and advocacy for human rights and social justice.

A resident of Rockville, Maryland, Shirley worked for the U.S. Public Health Service where, for many years, she served as Deputy Director of the Department of Medicine. At the time of her retirement, she was Director of the Office of Program Development, Bureau of Health Professions. Her tenure at the government health agency spanned 37 years and was highlighted by numerous awards, including the Public Health Service Superior Service Award, the highest public service level award to be granted to a civilian.

Since her retirement, Shirley has worn many hats and taken volunteerism to new heights. An outspoken champion of health care for the disenfranchised, Shirley was appointed to the Montgomery County Commission on Health and served as its Commissioner from 1995–2000. She also served on the Board of the Primary Care Coalition of Montgomery County, a charitable organization committed to bringing high quality, accessible, and efficient health care services to low-income, uninsured county residents.

Combining her concern for public health with her knowledge of the governmental process, Shirley testified frequently before the Montgomery County Council and the Maryland General Assembly, urging lawmakers to pass legislation to ban smoking in public places. From 1997–98, she served on the board of directors of Smoke Free Maryland and as co-chair of the Montgomery County Smoke Free Coalition.

In the civil rights arena, Shirley challenged local officials to eliminate prejudice and injustice and lobbied persistently for fair housing to correct the discriminatory practices of landlords in Montgomery County.

Education always has been high on Shirley's agenda. This cum laude graduate of Howard University has worked tirelessly for scholarships for minority students and has spent countless hours teaching and promoting economic empowerment concepts to at-risk students in public schools.

An active Democrat, Shirley has been president of the Montgomery County District 19 Democratic Club for the past 5 years and serves as chair of Precinct 8–03 in Rockville. She counts as one of her proudest achievements her efforts to establish the African American Democratic Club of Montgomery County, where she served as first vice president.

Shirley is a 1996 graduate of Leadership Montgomery, a program designed to train individuals to be effective leaders in the Montgomery County community. From 2000–06, she served on the Montgomery County Commission for Women, a resource and an important voice for women throughout the Washington metropolitan area.

In 2002, Shirley was inducted into the Montgomery County Human Rights Hall of Fame. Two years later, she was selected as the Volunteer of the Year by the Montgomery County Democratic Central Committee. In 2005, she was named a ''Woman of Achievement'' by the Montgomery County Business & Professional Women and received the ''Community Services Award'' from the Black Business and Professional Women's Clubs, Inc., the ''Civil Rights Award'' from the Montgomery County, Maryland Branch of the NAACP, and the ''Distinguished Leadership Award'' from the Community Leadership Association.

Madam Speaker, Shirley L. Johnson exemplifies community service. She is an individualist and an idealist who believes in equal opportunity for all men and women. She cares deeply about the quality of life in her community and is a model to others of what one person can accomplish through commitment, hard work and perseverance.

On Sunday, October 28, 2007, Shirley Johnson will be honored at an event at the Bauer Drive Community Center in Rockville, Maryland. Referred to by her friends as ''One Classy Lady,'' Shirley will be ''roasted, toasted, and appreciated.'' I am proud that she is my constituent and am pleased to add my praises to the chorus of family, colleagues and friends who will gather to salute her.

TRIBUTE TO ALABAMA POLITICAL JOURNALIST BOB INGRAM, 1926–2007

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. EVERETT. Madam Speaker, I rise in tribute to a man who for a generation symbolized great class and professionalism in Alabama political journalism, Bob Ingram.

Alabamians statewide, and, in particular, in the political and journalism communities, were saddened to learn of the passing of Bob Ingram on October 18 at the age of 81. To all those who knew him, Bob was an unquestioned authority on State politics. He possessed a comfortable familiarity with the historical and personal side of Alabama government and the key players who shaped it going back some 6 decades. He was unequalled in his political wisdom because he was a witness to and participant in government. He covered our State through both tough and brighter times but he never lost his love for Alabama and its often colorful political figures.

Bob began his career as a reporter for the Cherokee Herald in his hometown of Centre. His mother, the town librarian, instilled in him a passion for writing which not only pointed him on his way to a remarkable journalism career, but also to authoring several insightful books on the Alabama political scene.

A World War II Marine Corps veteran, reporter for the Montgomery Advertiser, writer of a statewide political column for nearly 50 years, State Finance Director for Governor Albert Brewer, and respected television political commentator in central and southeast Alabama—Bob Ingram was a man of many talents, unified by his love of politics.

There were no sacred cows with Bob's political commentary. That's why we trusted him. You knew his opinions were well-researched and from the heart.

From Big Jim Folsom to Gordon Persons, Patterson, Wallace, Brewer, James, Hunt, Baxley, Siegelman, Riley—he knew them all. Whatever occurred in Alabama politics, you wanted to get Bob's thoughts. He also brought touches of grace, humor, and humility to his commentary—always realizing the pressures and vicissitudes of human nature in the political arena.

Thank you, Bob, for your love of Alabama and her political institutions. Your indelible mark will be felt as strongly as any public servant. And that's the way we see it.

RECOGNIZING NANCY BERRY FOR BEING NAMED TO USA TODAY'S 2007 ALL-USA TEACHER TEAM

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. MILLER of Florida. Madam Speaker, on behalf of the United States Congress, it is an honor for me to rise today to recognize Nancy Berry for being named to the USA Today's 2007 All-USA Teacher Team.

Nancy Berry is a first grade teacher at Liza Jackson Preparatory School, a charter school in Fort Walton Beach, Florida. She has been an educator for 34 years, which includes five years as a principal.

As the USA Today panel sifted through hundreds of nominations, they judged the teachers on how well they identify and address their students' needs and the impact they have on students and learning. A parent of a former student, Dawn Fisher, was so impressed with Mrs. Berry that she nominated her for this prestigious distinction. Only 20 teachers nationwide were chosen.

Each year Mrs. Berry welcomes her students to ''Berryland USA: A Place Where Children Love to Learn.'' She is known for her gentle encouragement, individualized attention and a plastic, heat-reactive fish to make learning a ''self-fulfilling prophecy'' for her first-graders. On the first day of class she brings out the fish and tells the children that if the fish curls up in their hand then they are smart, worthy and good. ''Children have to have concrete ways of seeing that they are smart or are able to be successful,'' she says.

Through her hard work and dedication in the field of education, the impact she has had on her students and the difference she has made in their lives has proven her to be among the great teachers of the nation. We are honored and proud to have her as one of our own.

Madam Speaker, on behalf of the United States Congress, I am proud to recognize Nancy Berry on this outstanding achievement for her exemplary contribution to the education of our children.

EXPLANATION OF MISSED ROLL CALL VOTE NO. 995

HON. TIMOTHY WALBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. WALBERG. Madam Speaker, I rise today in order to offer an explanation of having missed rollcall vote number 995 earlier today. I missed this vote because I was visiting wounded warriors at Walter Reed Army Medical Center. I enjoy the opportunity to visit with soldiers from my district, today visiting soldiers from Adrian and Jackson. I believe it is our duty as elected representatives to see to it our soldiers are receiving the proper care and resources needed for their recovery.

Madam Speaker, whereas I missed this vote today, I wish for my constituents to know I did not miss this vote in haste. Rather, I was seeing to the needs of these brave soldiers who represent the best America has to offer. As an avid outdoorsman and conservation I supported the Motion to Recommit H.R. 1483 and, had I been present, I would have voted ''aye.''

ON THE AUDUBON OHIO URBAN CONSERVATION CREW SUMMER CAP AT THE ROCKEFELLER PARK GREENHOUSE IN CLEVELAND

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mrs. JONES of Ohio. Madam Speaker, I rise today to recognize the Audubon Ohio Urban Conservation Crew Summer Cap at the Rockefeller Park Greenhouse in Cleveland. The Ohio program of the National Audubon Society is working hard to ensure that children in the central city have the opportunity to connect with nature and, in doing so, improve both their educational achievement and their sense of community and self-esteem.

During the recent August recess I had the good fortune to visit the Ohio program of the National Audubon society which is also a program in my own district. The program, a free summer camp for neighborhood children ages 8 to 11, is known as the Urban Conservation Crew. Through this program, Audubon Ohio, in less than five weeks, has succeeded in developing a group of budding scientists who have mastered the fine points of bird identification and behavior, focusing on the birds and plants of their own neighborhood.

Audubon Ohio chose as its location for the camp the Rockefeller Park Greenhouse. The Greenhouse is located in the heart of Cleveland's historic Glenville neighborhood. Owned and operated by the City of Cleveland, the Greenhouse's official function is to develop plants for indoor and outdoor use at other city properties. But the facility includes classroom space, extensive gardens (including a community garden), and a large meadow ringed with mature trees that makes an excellent habitat for birds.

I grew up near the Greenhouse, yet during my visit I learned a lot of new things about it. Chief among these was the fact that the Greenhouse property immediately adjoins an ''Important Bird Area,'' or ''IBA.'' IBAs are part of an international network of areas that are important to the survival of migratory birds. This network was created by a European-based organization, Birdlife International. Audubon is the Birdlife partner responsible for designating and protecting IBAs in the United States.

The Greenhouse sits next to one of 63 IBAs that Audubon has designated in Ohio. Specifically, it is next to the ''Doan Brook/Dike 14 IBA,'' a key migratory corridor that connects the coast of Lake Erie with the upland Shaker Lakes on the western edge of the Appalachian Plateau. In practical terms this means that a lot of interesting birds pass through the area, with many species nesting in it. This in turn creates an opportunity for children in Glenville to explore an important natural area right near where they live.

From what I saw of the camp, Audubon Ohio is taking full advantage of the location of the Greenhouse and the convergence of a central city neighborhood with an interesting natural area. During the first four weeks of the camp, children walked the Greenhouse grounds and the surrounding neighborhood with Audubon instructors who taught them how to identify birds both by sight and by sound. Audubon also took advantage of the plant life inside and outside of the Greenhouse to teach the children about what plants they could grow in their neighborhood and how the birds of the neighborhood would both help the plants survive by eating pests and, in turn, benefit themselves from the seeds and berries produced by the plants.

During my visit the children showed off the knowledge that they had picked up in only a few weeks. They explained to me the concept of ''field marks'' of birds and how I could use field marks to distinguish different species. They identified the various body parts of birds and explained how I could distinguish the sexes of different species, such as the Northern Cardinal. They told me what kind of food birds could find around the neighborhood and how people could help birds by supplying this food. And they explained how to protect birds from man-made threats, such as plastic ''six pack'' holders that, they said, I needed to cut up so that birds would not get their necks stuck in them and choke.

Beyond the knowledge and conservation values that the children were displaying, I was impressed by the passion with which the children were discussing the birds and plants of their neighborhood. I kept having to remind myself that these children were all less than 12 years old, some as young as eight had no previous interest in birds, let alone experience in identifying them. These children were learning complex fundamental scientific techniques, including observation, distinction, grouping by similarities, understanding food chains and identifying threats and barriers. Introducing children to birds and plants was a great way of teaching them science by drawing on children's inherent desire to explore and understand the natural world around them.

Cleveland is blessed with a number of outstanding institutions that have offered nature-based education to children over the years. These include our fabulous Metro Parks network as well as stand-alone institutions such as The Nature Center at Shaker Lakes, the Lake Erie Nature and Science Center and the

Cuyahoga Valley National Park Education Center. These institutions have gone to great lengths to reach out to the central city by bringing children out to their suburban and exurban facilities. I appreciate all of the efforts they have made over the years, and I hope they continue.

What distinguishes Audubon Ohio's Urban Conservation Crew is that it is being conducted right in the neighborhood where the children live. Given the enthusiasm I saw in the children during their visit, I am confident that they will continue to explore Rockefeller Park, looking for birds, plants and other animals, long after the camp is over.

After my visit I learned that Cleveland is not the only location where Audubon has been offering programs like the Urban Conservation Crew to central city children. In Columbus, Audubon is developing the Grange Insurance Audubon Center, a nature-based education center slated to open in 2009 in a central city neighborhood just a mile south of downtown. Audubon already has similar facilities at Prospect Park in Brooklyn and in Debs Park in East Los Angeles. Another urban center, known as "the Rio Salado Center," is under development in the heart of Phoenix.

It is notable that Audubon Ohio produced the Urban Conservation Crew program almost entirely with private funds. Support came from the Cleveland Foundation, the Kent H. Smith Charitable Trust, and the Shaker Lakes Garden Club. Audubon Ohio did, however, receive a small amount of federal money, specifically a $5,000 grant from the U.S.D.A. Natural Resources Conservation Service. It goes to show how a relatively small amount of federal dollars can be leveraged to produce great results.

I commend Audubon, Ohio for helping to reconnect children with nature, particularly in the central city. Audubon and its Ohio program deserve high marks for their creativity and skill in doing so at the Rockefeller Park Greenhouse in Cleveland and elsewhere. They provide great hope for the future.

WELCOMING HIS HOLINESS KAREKIN II, SUPREME PATRIARCH AND CATHOLICOS OF ALL ARMENIANS TO THE 10TH CONGRESSIONAL DISTRICT OF ILLINOIS

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. KIRK. Madam Speaker, I am honored to welcome His Holiness Karekin II, Supreme Patriarch and Catholicos of All Armenians, to the 10th Congressional District of Illinois. His Holiness Karekin II was a pivotal figure in rebuilding the Armenian Church in the aftermath of the Soviet period and providing spiritual leadership for 7 million Armenian Apostolic Christians around the world. He has undertaken extensive philanthropic and humanitarian work, including opening orphanages, hospitals, soup kitchens for the elderly and cultural centers for the youth of Armenia. We would like to honor His Holiness Karekin II for his dedication to the people of Armenia and thank him for visiting the 10th District of Illinois.

I hope this trip to the United States compels my colleagues to bring the Armenian Genocide resolution, H. Res. 106, to a vote before the full House of Representatives. For more than 90 years, Armenians were denied recognition for the Genocide of 1915.

We promised in 1945 to never forget the Holocaust, to never again let such atrocities be committed. But the world could forget the first genocide of the 20th Century. In fact Hitler used the world's denial of the Armenian Genocide as justification for his invasion into Poland and the ensuing ethnic cleansing of Europe's Jewry. In a speech he gave in late August of 1939, Hitler stated, "I have placed my death-head formation in readiness . . . with orders to send to death mercilessly and without compassion, men, women, and children of Polish derivation and language . . . Who, after all, speaks today of the annihilation of the Armenians?"

As a defender of human rights, America must formally recognize the genocide Hitler once dismissed so easily. From 1915 to 1923, the Ottoman Turks systematically annihilated more than 1.5 million ethnic Armenians. There is no other way to describe this organized campaign of murder than as genocide.

I encourage my fellow Congressmen to support the Armenian Genocide resolution so that we may finally provide the Armenian community with the recognition and justice they deserve.

IN HONOR OF JAMES R. CLARK, UNITED STATES ARMY AIR CORPS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. SESSIONS. Madam Speaker, I rise today to honor James R. Clark, a World War II veteran. World War II was in progress when James decided to leave his position as the high school principal of Star City ISD in Arkansas. He realized his country needed him and enlisted with the Army Air Corps on November 3, 1942.

During his tenure at Aloe Army Base in Victoria, Texas, he taught cadets how to disassemble and reassemble machineguns while blindfolded and navigation before being relocated to headquarters. At headquarters, James was the only public relations writer and news photographer on base. After spending over 2 years at Aloe, he was relocated to California and was at Fort Ord when he was notified that would be going to Japan. Fortunately, the war ended before he was deployed for Japan and James was discharged on November 22, 1945.

World War II is known as the deadliest conflict in human history, taking the lives of over 70 million people. During this difficult time, our country stood united behind our brave servicemen and women who so willingly took to the battlefields to defend freedom and democracy. It is veterans like James that helped us emerge victorious from World War II and restore hope and humanity in a world that was shattered by the darkness of hatred and violence.

His patriotism, courage, and selflessness should be commended and his dedication to public service deserves our highest regard. Madam Speaker, I ask my esteemed colleagues to join me in expressing our deepest gratitude for his service to this great Nation.

IN MEMORIAM OF ROGER LEE GORE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. RANGEL. Madam Speaker, I rise today in celebration of a dear friend's life, that of Roger Lee Gore—a man of limitless smiles, generous laughter, and amiable spirit. He toiled in the New York hospitality business for years, serving a 30-year stint as waiter, maitre d', and banquet captain for Hilton Hotel. An ardent voice in his community, he remained a lifelong member of the National Association for the Advancement of Colored People and contributed his time and talents to the Civil Rights Movement. A lover of people with an effortless sunny disposition, he asked that no tears be shed over his blessed life.

Roger was born on August 30, 1944 in Myrtle Beach, South Carolina to the late Harold Gore and Sadie Gore Graham. Nicknamed "Ducky," he was an early-age churchgoer and hard worker, moonlighting as a caddy and waiter to financially help out the family. In high school, he participated in team football, basketball, and glee club, earning his diploma in 1963.

He travelled the country after school, but settled in New York by the late 1960s as a waiter and bartender at Henry Stampler's Steakhouse. He was a union man, a member of Local Six, Unite, and HERE Hotel unions and chairman of the Elections and Objection Committee. In 1993, he married Lena McPhatter, who later passed in 1998. He then married Noveria Epps in March of 2007. Roger passed away September 30, 2007 and was memorialized in his funeral held October 19, 2007.

Today, we are moved, stirred, sobered by this loss, but we are more so grateful and joyful by the legacy he's left behind.

IN SUPPORT OF H.R. 1680, SECURE HANDLING OF AMMONIUM NITRATE ACT OF 2007

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 2007

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of H.R. 1680, legislation critical to securing our Nation against further acts of terrorism. I am proud to cosponsor this legislation, which I believe effectively balances necessary measures to provide additional security with the need to protect our agricultural industry.

On September 11, 2001, our enemies demonstrated their ability to use everyday objects as deadly weapons. Ammonium nitrate is a product of great use to our Nation's agricultural sectors, but, in the hands of terrorists, could cause America great harm. Like the airplanes flown into buildings, fertilizer bombs

have been used to deadly effect, beginning infamously with the 1995 Oklahoma City bombing. We need to balance these very real security concerns against the vital value of ammonium nitrate fertilizer to the U.S. plant food industry, its many local retail agribusiness outlets, and the farmers and livestock producers they serve.

Ammonium nitrate fertilizes our Nation's crops, and it helps the American economy grow. It provides a relatively inexpensive source of the nitrogen required to grow crops, and it has economic, agronomic, and environmental benefits to the entire society. It can also, however, be used to create explosive devices, as demonstrated by the Oklahoma City bombing as well as by subsequent terrorist plots in 2000, 2002, 2003, and 2004.

According to a 1998 National Research Council report, ''Containing the Threat From Illegal Bombings,'' short of a method of neutralizing the explosive properties of ammonium nitrate, which we do not yet have, commercial controls and regulatory action ''offer the best means of reducing the threat from illegal bombings.''

H.R. 1680 will require the creation of these controls and regulations. This bill will provide the Department of Homeland Security with the authority to develop a nationally consistent, effective, and integrated approach to control access to ammonium nitrate, and it will require the Department to develop a regulatory system aimed at keeping these fertilizers away from those who would use it to threaten our Nation. Under the provisions of this legislation, the Department of Homeland Security will register all producers, sellers, and purchasers of ammonium nitrate, and those who purchase and take custody of this product will be required to provide their names, addresses, and telephone numbers to the Department. All of these individuals will be accountable for any ammonium nitrate they take possession of.

In addition, this legislation will require producers and sellers to maintain records of all sales and transfers for at least three years. Sellers will have the right to refuse sale to prevent misappropriation of this potentially dangerous substance, and they will be provided with guidance on identifying suspicious activity, as well as how to alert law enforcement officials to such behavior. Additionally, producers and sellers will be required to report any loss or theft to law enforcement within 24 hours.

This legislation also provides further means for enforcement, establishing a process for the Department to track, monitor, and audit the ammonium nitrate records. Under the provisions of this bill, enforcement may be delegated to States where cooperative agreements and sufficient funding exist. To punish violations, the Department may levy civil fines of up to $50,000. This legislation does not preempt or alter any State statute providing additional protection against ammonium nitrate falling into the hands of terrorists.

Yet in our counterterrorism efforts we should not lose sight of the need to protect the American farmer, especially small and minority farmers struggling to make ends meet on the family farm. Ammonium nitrate is an essential tool they use to sustain themselves and their families and those essential needs should not be overlooked. Our counterterrorism efforts should not be detrimental to the continued availability of ammonium nitrate fertilizer to U.S. farmers, endangering their way of life and threatening their livelihoods.

H.R. 1680 offers an opportunity to strengthen our defenses against the threat of terrorism without placing an extraordinary burden on industry. This legislation has the support of the Fertilizer Institute, an industry group representing most fertilizer producers.

Mr. Speaker, as our Nation's leaders, it is our responsibility to be proactive, and to make every effort to remain several steps ahead of any who might attack our country. This bill is an opportunity to do just that, to not wait for another devastating attack to address what we already recognize to be a serious security threat. I strongly support this legislation, and I urge my colleagues to do likewise.

FOREIGN GANGS OPERATING IN THE UNITED STATES

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. POE. Madam Speaker, since June, national law enforcement agencies have teamed up with their state and local counterparts. The result? The arrest of more than 1,300 violent street gang members, associates, and illegal aliens in 19 states.

In 2005, the Department of Homeland Security's U.S. Immigration and Customs Enforcement launched a national effort called Operation Community Shield. This effort has already led to the arrests of over 7,600 gang members from 700 different gangs; 107 were gang leaders. ICE agents also seized 340 grams of cocaine and over 1 lb. of marijuana and crack cocaine.

Operation Community Shield focuses on keeping criminal gangs off our streets. ICE agents investigate the crimes and the immigration status of the criminals. Since 2005, ICE charged 5200 gang members with immigration violations and processed them for deportation.

This is a great example of successful law enforcement partnerships. Local, state, and federal anti-gang efforts are leading the fight against street gangs. These partnerships allow law enforcement agents to share resources and leadership and to arrest, prosecute, imprison and deport criminal and illegal alien gang members. And that's just the way it is.

TRIBUTE TO DAVID B. HUMPTON

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. VAN HOLLEN. Madam Speaker, I rise today to recognize Mr. David B. Humpton for his twenty-two years of service to the City of Gaithersburg, Maryland.

Mr. Humpton began his career with the City of Gaithersburg in 1986 as an intern and quickly rose to the position of Deputy City Manager. Having proven himself as a dynamic and capable leader, Mr. Humpton was appointed City Manager in 1995. During his 17-year tenure, Mr. Humpton has guided the city through significant change and growth with dedication and commitment.

As City Manager, Mr. Humpton has had numerous significant accomplishments. Among other successes, he developed a strategic planning process, implemented new procedures to streamline the budget process, and served as an effective advocate for inter-governmental collaboration. Mr. Humpton's management has been instrumental in the completion of several notable development projects, including the Washingtonian Center and the Kentlands. Under his leadership, Gaithersburg has been recognized for its ''livability,'' economic development initiatives, budgeting and accounting, communications and recreation services.

Mr. Humpton's ''retirement'' will be short-lived as he will soon join Montgomery Village, Maryland as its top administrator. His experience as an effective administrator will serve him well as he meets the challenges of his new position.

Madam Speaker, I am pleased to honor Mr. David Humpton for his outstanding service.

TRIBUTE TO THE LIFE OF OFFICER SERGIO CARRERA, JR.

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. BACA. Madam Speaker, I stand here today in remembrance of a distinguished member of the Rialto community, Officer Sergio Carrera, Jr.

While serving his community, Sergio Carrera, Jr., 29, a 4-year veteran of the force and a member of the SWAT team, lost his life in the line of duty. Despite efforts by doctors at Arrowhead Regional Medical Center in Colton, Officer Carrera passed away leaving his wife, Louise Andrea Carrera, 2-year-old son, Sergio Carrera III, and 1-year-old daughter, Izabella.

A dedicated member of the Rialto community, Officer Carrera was hired by the Rialto Police Department in June 2003 and loyally served 4 years of his life to ensure the safety of the citizens of Rialto. Along with Carrera's, wife and children, his father, Sergio Carrera caring mother. Aurora Carrera, and siblings, Shirley Magana and Susan Colao, mourn the sudden loss of their dear son and brother.

While it is with sadness that we mourn the unexpected death of this valiant officer, we think of him with joy and fondness as we recognize his devotion to family, friends, and the city of Rialto. The use of his life to protect and ensure the safety of our community is unquestionable. Although now gone, in his absence we will remember the significance of selfless servitude that so many of our public officers show for our citizens on a daily basis.

I thank Officer Sergio Carrera, Jr., for dedicating his life to the city and people of Rialto, CA. I am honored to consider him a hero and I truly appreciate all he gave to our community and our country.

Barbara, my family, and I extend our deepest condolences to Officer Carrera's family during this difficult time. May God bestow his comfort upon them as they grieve the loss of their loved one.

SUPPORTING OUR TROOPS

HON. RON KLEIN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. KLEIN of Florida. Madam Speaker, yesterday, I voted to table H. Res. 767, a motion that would have delayed the business of the day in order to censure Congressman STARK. I felt that Congress should spend its time prudently, on important issues that matter to the American people, not on issues that divide us.

With that said, I do not condone or support Congressman STARK's statements of October 18, 2007. I believe that he was right to apologize on the House floor. Our brave men and women fight wars because they believe in protecting American citizens and their freedoms.

Just a few days after Mr. STARK made his comments, I visited our wounded soldiers at Walter Reed Army Medical Center, and I saw their determination and patriotism. I could not be more proud of our troops serving around the world, and I will continue to work hard to provide them with the best supplies and protection when they are in battle, and then, the best care when they return home.

HONORING THE 130TH ANNIVERSARY OF THE BAKERSFIELD FIRE DEPARTMENT

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. COSTA. Madam Speaker, I rise today, along with my colleague Congressman MCCARTHY, to congratulate the Bakersfield Fire Department on the celebration of their 130th anniversary.

The Bakersfield Fire Department dates back to 1877, when community members recognized a need for a well-organized, professional fire department and held local fundraisers to buy equipment. Since those early days, the department has expanded and now serves the public with 13 engines, 3 ladder trucks and over 180 firefighters.

For over a century, the Bakersfield Fire Department has served the Bakersfield community, and their deep and longstanding commitment to public safety is evident by the many public education programs they conduct every year. Throughout the year, the department hosts many informational sessions such as: fire safety and home evacuation, the installation and maintenance of smoke detectors, earthquake preparedness and chemical safety. Bakersfield's firefighters also deliver presentations in local classrooms, educating our children on helping to make their communities a safe place to live.

Through the efforts of their public education and fire prevention services division, the firefighters are working hard to ensure fire disasters never occur in the first place. However, should the worst occur, the operations, training and arson divisions stand ready to assist our citizens at a second's notice.

The Bakersfield Firefighters have always prided themselves on serving the community not only through first-rate emergency services while on-the-job, but also a commitment to volunteerism that extends beyond their job responsibilities. As active members of the community, the firefighters are involved in a wide range of volunteer activities, from serving on local boards of community organizations to helping disadvantaged children get school supplies for the upcoming school year.

The 130th anniversary of the Bakersfield Fire Department is a perfect opportunity to pay tribute to the men and women who risk their lives every day for the safety of our community. Often, when people are running out of buildings, away from the danger, these brave men and women are the ones running towards the flames. They are our everyday heroes and both my community and myself are eternally grateful for their service.

IN HONOR OF DR. ELAINE MAIMON

HON. JESSE L. JACKSON, JR.

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. JACKSON of Illinois. Madam Speaker, I rise today to recognize Dr. Elaine Maimon as Governors State University's fifth president.

I am proud to represent Governors State University, the only public university in the Chicago's south suburbs. Established in 1969, GSU's student body currently numbers 6,000 students, consisting primarily of young adults transferring from community colleges as well as older working adults returning to complete their education and advance their lives.

On November 3, GSU will formally install Dr. Elaine Maimon as its fifth president.

Dr. Maimon will lead a university committed to the principles of diversity. Forty-five percent of GSU's students are minority. Thirty-one percent of its faculty is minority—double the national average.

Dr. Maimon will lead a university that is accessible. A study conducted by the Lumina Foundation has recognized GSU as the most accessible university in the region.

Dr. Maimon will lead a university that meets the highest standards of demonstrable academic quality. Eighty percent of its faculty hold doctoral degrees or the highest degree in their field. The university itself is fully accredited, as is each program with an associated national accrediting body.

Dr. Maimon will lead a university connected with its community. Approximately 25,000 elementary, middle-school, and high school students visit Governors State each year for educational and cultural experiences. GSU faculty members work closely with local governments, school districts, and law enforcement agencies to help meet the needs of the region. The university's business development center has helped secure nearly $55 million in financing since 2000 and has created and retained more than 1,100 jobs in the region.

More than 30,000 men and women have graduated from GSU since its founding. Most graduates still reside in the region, where they serve as teachers, healthcare professionals, executives, entrepreneurs, and municipal leaders. Their lives have been transformed and their communities enriched because they had access to a quality university education.

GSU is a model for the kind of university Dr. Maimon has advocated, developed, and enriched throughout her academic career. Over the years, she has invested her considerable talents to provide access and opportunity, to encourage dreamers to help dreams come true, and to help meet the needs of the underrepresented and underserved.

She has demonstrated the integrity, vision, and commitment required to take GSU to new levels of excellence and service.

Welcome, Dr. Elaine Maimon, and congratulations, Governors State University.

RECOGNIZING THE 35TH ANNIVERSARY OF THE SKYLINE HIGH SCHOOL CLASS OF 1972

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today to commemorate the 35th anniversary of the 1972 graduating class from Skyline High School in Dallas, TX. Located in my Congressional District, Skyline High School has the distinction being the first high school to offer a magnet school curriculum in the United States. As the first graduating class of our Nation's first magnet school, I am pleased to honor them today as they celebrate this important milestone in their education.

Apart of the Dallas Independent School system, Skyline's construction and development was guided by J. Stamps, the first high school principal, and Gene Davenport, the first Career Development Center Principal. Their vision for the school has helped shape it into the institution it is today, offering 22 career development clusters under the magnet school program. These exemplary cluster programs have directly yielded the creation of additional DISD magnet school. Graduates of the magnet school include authors, politicians, athletes and scholars.

Skyline High School aims to instill upon their graduates and students integrity, knowledge and ethics to prepare them for their future pursuits in life. The class of 1972 truly embodies these attributes, and is a shining example of our Dallas citizenry. Again, I am honored to congratulate them on the occasion of their 35th graduation anniversary.

HONORING JAMES ROWLAND

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. RADANOVICH. Madam Speaker, I rise today to congratulate Mr. James Rowland for his years of service to the criminal justice system in California, and upon the dedication of the James Rowland Crime Victim Assistance Center in Fresno, CA.

James Rowland, now retired, has provided over 30 years of service to all aspects of the criminal justice system in California. In October 1972 he began his career as a Fresno County chief probation officer, where he worked hard to give victims the consideration, fairness, and support that he felt was lacking in the system. With these efforts he was instrumental in adapting the way the justice system handles crime victims. In 1975, as a result

of Mr. Rowland's efforts, Fresno County Probation Department became the first probation department to open a unit specifically designed to provide services to crime victims; including victims of homicide, domestic violence, and crimes against children. Mr. Rowland developed the first victim impact statement, to provide the judiciary with an objective currently part of the law.

After his time with the Fresno County Probation Office, Mr. Rowland served as the director of the California Youth Authority and the director of the California Department of Corrections. He established the Office of Victims of Crimes in both agencies. While working with the state, he instituted classes within the prisons for inmates to attend. In these classes they learned about the impact of their crime on their victim. Mr. Rowland has also taken the initiative to change the justice system within California by developing a system that is more accommodating, appreciative, and responsive to the suffering of those that are victims of a crime.

Mr. Rowland's work within California has extended nationwide and even worldwide. He has been the recipient of many prestigious awards from Peppardine University and Harvard University, as well as various criminal justice and private agencies, for his contributions to the field of corrections. Mr. Rowland has become internationally known as a crime victims advocate, and he has changed the way people perceive the victim. In his retirement Mr. Rowland continues to provide direction and assistance to persons and agencies that work within the justice system.

Madam Speaker, I rise today to commend and congratulate Mr. James Rowland for his work toward crime victims assistance and the dedication of the James Rowland Crime Victims Assistance Center. I invite my colleagues to join me in wishing Mr. Rowland many years of continued success.

PERSONAL EXPLANATION

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. PUTNAM. Madam Speaker, on October 22, 2007 I was unavoidably detained and missed rollcall votes 983, 984 and 985. Had I been present, I would have voted: rollcall vote 983, ''no'', rollcall vote 984, ''aye'', rollcall vote 985, ''aye''.

IN MEMORY OF DR. PARMER RICHARDSON, UNITED STATES NAVY

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. SESSIONS. Madam Speaker, I rise today in memory of Dr. Parmer Richardson, a World War II veteran, and in honor of his patriotism and a life dedicated to service. He joined the United States Navy in the summer of 1941.

Though he spent most of his service as a radioman specializing in communications technology, he originally joined with the intent to become a pilot and was persuaded by a Navy recruiter who promised him flight training. He was sent to various areas in the United States as well as Canada and Mendora in the Philippines. After being discharged, Parmer began his 55-year dental practice.

World War II is known as the deadliest conflict in human history, taking the lives of over 70 million people. During this difficult time, our country stood united behind our brave service men and women who so willingly took to the battlefields to defend freedom and democracy. It is veterans like Parmer that helped us emerge victorious from World War II and restore hope and humanity in a world that was shattered by the darkness of hatred and violence.

He is survived by his wife, Jane Richardson, of Duncanville, TX. He will be remembered as a devoted family man, a lover of flying, and a proud veteran and American. His patriotism, courage, and selflessness are example of what make America great. Madam Speaker, I ask my esteemed colleagues to join me in expressing our deepest gratitude for his service to this great Nation. May God bless all those he loved, and may I convey to them my sincerest condolences and the gratitude of the American people.

SPEAK ENGLISH

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. POE. Madam Speaker, walk into any public school, police station, or hospital and you will surely hear public officials speaking in another language than English. We are using taxes from hardworking Americans to hire employees for the sole purpose of being able to communicate with people who refuse to learn English. These people are making the choice not to assimilate as Americans and learn English, but keeping their allegiance to Mexico or whichever country they immigrated from. The United States has had a long history of immigrants, but all of the different cultures desired to become one unified America. The English language was the common bridge to which these cultures could relate, and the same can still hold true today. That is why I passionately encourage the passing of H.R. 997, the English Language Unity Act of 2007.

This bill will require official functions of the United States to be conducted in English only. In addition, it declares that the English language requirements and workplace policies, whether in the public or private sector, shall be presumptively consistent with the laws of the United States.

I believe Teddy Roosevelt had it right when he said: ''There can be no divided allegiance here. Any man who says he is an American, but is something else also, isn't an American at all. We have room for but one flag, the American flag. We have room for but one language here, and that is the English language . . . and we have room for but one sole loyalty and that is a loyalty to the American people.''

And that's just the way it is.

TRIBUTE TO MOBILEMED OF MONTGOMERY COUNTY, MARYLAND

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. VAN HOLLEN. Madam Speaker, I rise today to express my appreciation and gratitude to Mobile Medical Care, Inc. for its 40 years of service to the medically disadvantaged of Montgomery County, Maryland.

MobileMed was founded in 1967 by the late Dr. Herman Meyersburg and Dr. George Cohen. While serving as a volunteer tutor in a home-study program in the Kensington community, Dr. Meyersburg noticed that many program participants were without health insurance or access to medical care. In its early years, MobileMed was funded largely through the contributions of its own volunteer physicians. Its first clinic was located in the basement of a Kensington church.

Today, 27 staff members and over 200 volunteer medical professionals provide health care services to approximately 5,000 Montgomery County residents each year, including 1,500 Head Start children. Through increased funding and volunteer participation, MobileMed seeks to expand its ability to serve more of the estimated 100,000 Montgomery County residents who cannot afford health care.

Throughout the last 40 years, MobileMed has fulfilled its mission of providing low-cost medical care to our community's homeless, low income, uninsured, and working poor in a respectful, competent, and compassionate manner. We in Montgomery County, Maryland are grateful for the dedication and efforts of MobileMed and its volunteers.

Madam Speaker, please join me in recognizing and honoring forty years of dedicated and outstanding service by MobileMed.

PERSONAL EXPLANATION

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. KING of New York. Madam Speaker, due to the recent passing of my mother, I did not return to Washington until yesterday afternoon. However, if I had been present yesterday morning, this is how I would have voted on the rollcall vote I missed: rollcall No. 986—on motion to table the resolution, ''no.''

TRIBUTE TO MICHAEL HEIERMANN

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. SHIMKUS. Madam Speaker, I rise today to honor the patriotism of Michael Heiermann.

Michael is a High School Junior from Mt. Vernon, Illinois. For several years now, he has put out small American flags throughout his neighborhood to mark special national holidays.

President Kennedy said, ''A nation reveals itself not only by the men it produces but also

by the men it honors.'' Today, America is a better place because of young men and women like Michael. And America is a better place because of good parents like Edward and Dorothy Heiermann.

Small acts of great love are the unremitting actions that make America great. It is my honor today to recognize the service of this young man as an example of a true patriot—a testament to which we should all aspire.

PERSONAL EXPLANATION

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Ms. WOOLSEY. Madam Speaker, on October 23, I was unavoidably detained and was not able to record my votes for rollcall No. 993 and No. 994.

Had I been present I would have voted: rollcall No. 993—''yea'', rollcall No. 994—''no.''

PERSONAL EXPLANATION

HON. STEVE R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. ROTHMAN. Madam Speaker, I would like to state for the record my position on the following votes I missed on October 22nd and 23rd.

On Monday, October 22, and Tuesday, October 23, 2007, I was unable to be present in the Capitol due to prior commitments and thus missed rollcall votes Nos. 983, 984, 985, 986, and 987. Had I been present, I would have voted ''aye'' on all votes.

In particular, I want to note my strong support for H.R. 189, the Paterson Great Falls National Historical Park Act of 2007, which was introduced by my colleague from New Jersey, Congressman BILL PASCRELL, JR., and which was considered as rollcall No. 983. This legislation establishes the Paterson Great Falls National Historical Park as a unit of the National Park System, thereby enshrining a truly unique national historic district in New Jersey. Had I been present during the consideration of this bill, I would have voted ''aye'' with great pleasure and pride.

IN RECOGNITION OF THE 50TH WEDDING ANNIVERSARY OF CONRAD AND FRANCES C. GASKIN, PHD

HON. DONNA M. CHRISTENSEN

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mrs. CHRISTENSEN. Madam Speaker, I rise to introduce you and my colleagues to a very special couple who happen to be my cousins.

Conrad and Frances are first generation African Caribbean Americans who were born in New York State. The parents and grandparents of Conrad Hail from Guyana, South America, continental United States and Jamaica, West Indies. Frances is rooted in five generations of the Christian and Farrelly clans on St. Croix, United States Virgin Islands and Guyana and Nigeria, by enslavement, and also West Meath, Ireland, respectively. The two met while attending St. Augustine's Elementary School in the Bronx, New York.

After elementary school Conrad and Frances went on to Bishop Dubois High School for Boys and Blessed Sacrament High School for Girls. Upon graduation he enlisted in the United States Air Force and was honorably discharged four years later. He followed in his parent's footsteps. His father, Lionel Gaskin was a Merchant Seaman and prolific mathematician and Lillian his mother, a health care companion and a storytelling humorist.

Frances went on to City College of the City University of New York (CUNY), where her father, Clement Christian had graduated several years before, and Fordham Hospital for Registered Professional Nursing, initiated by her mother, Therese, who was a Licensed Practical Nurse and an omniscient resource person.

Frances is a second generation graduate from the CUNY system. They were married by Monsignor Cornelius Drew on September 14, 1957 at St. Augustine Roman Catholic Church in the Bronx, New York. Three children were born from this union: Conrad II (1995), Trace and Troy.

Being Catholics, the children received the sacraments at St. Augustine and Most Holy Trinity in Brooklyn, New York. The family continued its affiliation with St. Augustine until immigrating to Brooklyn, New York where Our Lady of Charity became their new Church home under the pastorship of Reverend Doctor James E. Goode, OFM. During the marriage Conrad and Frances reared their children, along with the ''village''; for it takes a Village to raise even one child. Their children learned the Montessori Method of Education at the United Nations Church Center, New York and continued their basic education at Most Holy Trinity Elementary School.

During the marriage, Conrad and Frances attained undergraduate and graduate degrees. He is an alumnus of Brooklyn College (CUNY) and Antioch University and she earned degrees from Hunter College (CUNY), Adelphi University and Fordham University. Their children were educated at Fordham Prep, New York Brooklyn Technical High School and Cascadilla Prep School in Ithaca, New York and Stuyvesant High School, New York. Conrad II, Trace and Troy went on to graduate from Bates College in Lewiston, Maine; Fordham University and Long Island University, New York, and Xavier University in New Orleans, Louisiana, respectively. A Fordham family tradition was upheld: Trace completed her undergraduate degree, Conrad graduated from Fordham Prep and Troy completed coursework at the University. Trace is a second generation graduate of Fordham. Some overlapping occurred in the family's quest for education: Four family members were in college at one time. The children went on to become responsible citizens in banking, education and brokering real estate.

Of the marriages, Conrad II; Trace and Troy united in matrimony with Adrianne; Mario, and Angela who brought forth five grandchildren: Conrad III and Kayla; Soleil Mustafa, and Briana and Troy Ashly II. Briana attends Hunter College High School and is the third generation in the CUNY system.

For a career change, Conrad and Frances emigrated from Brooklyn to Albany, New York and helped found an additional Church home in the Faith Community of the Black Apostolate, which later expanded to include St. Joan of Arc and Sacred Heart Churches of the Roman Catholic Diocese of Albany, New York. Father Kofi Ntsiful-Amissah serves as Pastor.

The family demonstrated entrepreneurial strengths by starting a skin and hair care business called Frances Christian Gaskin, Inc. Four patents were awarded in the United States for dissolving melanin and placing it into the MELANIN PLUS products.

The family enjoys interstate and international travel, exposing their children and grandchildren to strong family values, and other places and cultures in the United States, the Caribbean, and their own children, to Europe.

Conrad is retired from The New York State Teachers' Retirement System; Frances is a former College Professor in Nursing and is pursuing her studies in Medicine.

Conrad and Frances, recognizing that ''giving back'' is the highest form of service, continue to advise the youth in academics and sports. Conrad coached basketball and swimming. Frances has also worked with the American Red Cross and is a Staff Officer with the United States Coast Guard Auxiliary. Both are Ministers of the Eucharist.

They love participating in Church activities and sports, particularly swimming and SCUBA diving. They are also communicants and members of Our Lady Star of the Sea Church and the Polar Bears on Martha's Vineyard, and also members of the Holy Cross Church and the Lil' Bay Posse morning swim on St. Croix.

The theme song on their 50th Wedding Anniversary was ''I Believe.'' They are indeed people of faith!

We thank God for this special couple and their family and we thank Him for the 50 wonderful years He has given them.

I ask the entire Congress of the United States to join me in wishing them many more loving years together and His continued blessings.

IN HONOR OF ROBERT M. ALLEN, UNITED STATES NAVY

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. SESSIONS. Madam Speaker, I rise today to honor Robert M. Allen, a World War II veteran. He joined the United States Navy on December 7, 1940 and was assigned to a small seaplane protector, the U.S.S. Avocet (AVP–4).

Upon completion of signalman school, he returned to the Avocet in February 1942 and received orders to transfer to the Convoy Control Center in Algiers, Louisiana. For the next two years, Robert plied the Gulf, Caribbean, and the Atlantic, which were teeming with German U-boats. Fortunately, none of his ships or convoys were attacked. After devoting five years of dedicated service to the Navy, Robert was discharged on January 14, 1946.

World War II is known as the deadliest conflict in human history, taking the lives of over

70 million people. During this difficult time, our country stood united behind our brave servicemen and women who so willingly took to the battlefields to defend freedom and democracy. It is veterans like Robert that helped us emerge victorious from World War II and restore hope and humanity in a world that was shattered by the darkness of hatred and violence.

His patriotism, courage, and selflessness should be commended and his dedication to public service deserves our highest regard. Madam Speaker, I ask my esteemed colleagues to join me in expressing our deepest gratitude for his service to this great Nation.

RECOGNIZING VERNA RUTHERFORD OF PORT ARTHUR, TEXAS

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. POE. Madam Speaker, today I am proud to recognize a distinguished Texan and long time community leader in Southeast Texas. After nearly a decade of service Mrs. Verna Rutherford is stepping down as Port Arthur Chamber of Commerce President. As Chamber President Mrs. Rutherford has worked tirelessly for the economic expansion of Port Arthur and all of Southeast Texas.

Mrs. Rutherford has always been a dynamic leader in her community. She is past president and 1981 Quota Club member of the year, 1984 Port Arthur Noon Business and Professional Woman of the Year, 1993 Chamber Athena Award recipient, a member of the Port Arthur NAACP, Rotary Club, and Aurora Sertoma Club.

Mrs. Rutherford's level of commitment goes far beyond the organizations she is a member of and this commitment was on full display after Hurricane Rita ripped through the Texas Gulf Coast. Hurricane Rita has often been forgotten by all but those who have lived through it on the Texas Coast. After Rita, the role of Chamber President grew much broader; instead of business development, Mrs. Rutherford was concerned about getting the citizens of Port Arthur food, water, and housing—there was no task too large or small. Though hurricane Rita slammed into the Texas coast almost 2 years ago Verna is still helping those who cannot find help elsewhere.

On behalf of the Second Congressional District of Texas, I want to congratulate Mrs. Rutherford on a job well done and wish her the best as she moves forward with her career. Through her diligent efforts and dedication she has made Southeast Texas a better place to live.

And that's just the way it is.

IN HONOR OF JAMES ROWLAND AND THE DESIGNATION OF THE JAMES ROWLAND ASSISTANCE CENTER IN FRESNO

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. COSTA. Madam Speaker, I rise today to congratulate James Rowland of Fresno, California. A great honor is being bestowed upon James, as the new Fresno County Probation Department Crime Victim Assistance Facility will be officially named the James Rowland Crime Victim Assistance Center.

James Rowland began his career as the Fresno County chief probation officer on October 2, 1972. His efforts to give crime victims the consideration, fairness, and support they so desperately deserve has been instrumental in changing the way the justice system perceives and treats crime victims. In 1976 James Rowland created the first victim impact statement to provide the judiciary with an objective inventory of victim injuries and losses at sentencing. The victim impact statement has brought not only nationwide but worldwide recognition that crime victims need additional assistance. This happened through James Rowland's resolve and fierce determination to provide appropriate and comprehensive services to Fresno County crime victims.

After 10 years of service as Fresno County's chief probation officer, James Rowland went on to serve as the director of the California Youth Authority and the director of the California Department of Corrections. He also established the Office of Victims of Crimes in both State agencies. Furthermore, he instituted classes in State prisons where inmates learned firsthand the impact of their crimes on their victims.

James Rowland took responsibility for changing the justice system to accommodate and respond to the suffering and trauma of those victimized by crime. He has received prestigious awards from both Pepperdine and Harvard Universities, as well as various criminal justice and private agencies for contributions to the field of corrections worldwide. He is now known internationally as a crime cictim advocate.

Although James Rowland is now retired after 40 years of public service, he continues to provide direction and assistance to persons and agencies that change the justice system. It is with great pride that I congratulate him for receiving this distinguished honor and for all that he has done on behalf of the county of Fresno.

TRIBUTE TO RON PRESCOTT

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Ms. WATSON. Madam Speaker, it was with great sorrow that I learned of the loss of my dear friend and colleague who was a real trailblazer in the field of education in Los Angeles. I am speaking of Mr. Ron Prescott, retired Deputy Superintendent of the Los Angeles Unified School District.

Ron was more than a trailblazer, he was a man with a vision for all students in the Los Angeles Unified School District. Although he had retired from everyday active duty in the day to day running of the Nation's second largest school district, he felt strongly about the importance of getting appropriate funding for students who had to be removed from regular schools that operated year round due to overcrowding.

Ron was an imposing figure during his tenure with the school district and later on, as a retiree, when he launched a second career as an influential and respected education lobbyist.

One of his most important achievements as a lobbyist was leading a way for new dollars to pay for integration programs. His efforts led to funding that became the genesis of L.A. Unified's popular program that created magnet schools to promote voluntary integration.

As Ron stepped into the role of the first teacher hired for a 1960's program that paired white and minority students in district schools, he also found time to found the District's Office of Multicultural Education. He was a frontrunner in leading early voluntary integration efforts before the era of court ordered forced busing.

Ron's vision and focus on the education of students in the Los Angeles Unified District will be sorely missed. He stands as an icon of effective, ethical advocacy for the rights of students.

The students of Los Angeles, colleagues and friends, all mourn the loss of Ron Prescott. I extend my most heartfelt condolences to his family, his students, his many close friends in the Los Angeles Unified District, and here on Capitol Hill.

INTRODUCTION OF THE TRUTH IN ACCOUNTING ACT OF 2007

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. RYAN of Wisconsin. Madam Speaker, I rise in support of the Truth in Accounting Act of 2007, which I am introducing today along with Ms. BACHMANN, Mr. KIRK, and Mr. COOPER. I am hopeful that this bipartisan legislation will shed greater light on the long-term fiscal challenges facing our Nation and will encourage Members to take a greater interest in addressing our out-of-control entitlement spending. At the same time, I am also hopeful our approach illustrates a potential way forward for the Federal Accounting Standards Advisory Board (FASAB) as they continue to discuss different options on how to account for our social insurance programs in the Financial Report of the U.S. Government.

This legislation, which is similar to a bill introduced last session by Mr. KIRK, Mr. COOPER, and Mr. Chocola, consists of three main components. First, it requires the Financial Report to include an audited calculation of the net present value of our primary social insurance programs, such as Medicare and Social Security, among others. Second, it requires the President consider this value when making a budget proposal to Congress and fully reveal the impact of his proposal on our long-term fiscal situation. Finally, it also requires the Secretary of Treasury and the Comptroller General of GAO to testify before Congress and provide their assessment of our Nation's long-term fiscal exposures on an annual basis. I would like to briefly discuss each of these components in greater detail.

The proposal to include the net present value of the Federal government's fiscal exposures comes from last year's Truth in Accounting bill. This provision would give the American public a clearer picture of the dire fiscal situation that we are facing, and it would require the Federal government to take responsibility for addressing this issue. According to

the latest reports of the Medicare and Social Security trustees, we are staring at 75-year fiscal exposures of $32 trillion and $4.7 trillion for each of these programs, respectively. This means that the current level of projected revenues for these two programs is nearly $40 trillion less than is needed to pay for our projected spending on them over the next 75 years. If you include the other obligations of our government, our overall fiscal exposures are greater than $46 trillion over this time period, or about $375,000 for every full-time worker in the U.S.

We cannot leave this problem unaddressed. The long-term health of our economy is at severe risk, as are the benefits that have been promised to our constituents. Including this figure in the Financial Report will finally force the federal government to level with its citizens and admit the daunting fiscal challenges we face. Furthermore, highlighting this problem will help encourage Members of Congress to take it more seriously, and to work on a bipartisan basis to address it.

I am also hopeful that this aspect of our proposal can help FASAB find a compromise solution to its current impasse over a new set of accounting standards for our social insurance programs. Earlier this year, FASAB released a proposal that would recognize a liability for Social Security and Medicare once a beneficiary had completed 40 quarters of work in covered employment, the period of time required to qualify for these benefits. The liability would show up on the audited Statement of Net Cost and Balance Sheet contained within the Financial Report. This view was met with substantial controversy and FASAB is not expected to move forward with it.

While I believe that FASAB's primary approach has a great deal of merit, I understand the critiques made against it. Opponents justifiably pointed out that this proposal fails to credit the government for the revenues that these programs are projected to receive over the same time period and perhaps inappropriately calls these commitments "liabilities" even though they do not represent contractual obligations. In addition, the primary proposal could make the current measure of accrual liabilities unusable since the size of the Social Security and Medicare components would dwarf the liabilities of other programs and possibly hide their own set of problems and concerns.

Our proposal addresses all of these concerns. It would fully account for projected revenues, would use the terminology "fiscal exposures" instead of "liabilities" to reflect the true nature of the obligation, and would leave the current accrual measures untouched so they could still be used by policymakers. At the same time, it would ensure that a measure of our fiscal exposures is on the audited portion of the Financial Report for the first time ever. I am hopeful that this is the type of compromise that FASAB could accept. While it may not go as far as some of the board members and some Members of Congress may hope, I believe that it makes real, although admittedly incremental, progress at uncovering the true nature of our long-term obligations.

The second component of this bill comes from an amendment Mr. COOPER offered during consideration of the House Budget Resolution in 2006, which passed the Budget Committee in a bipartisan manner. I strongly support this proposal and commend Mr. COOPER for his leadership on the matter. I am hopeful that the Budget Committee, of which I am the Ranking Member, will seek to permanently enact this provision. I look forward to working with Mr. SPRATT and other distinguished Members of the Committee to accomplish this.

Finally, this proposal would require the Secretary of the Treasury and the Comptroller General of the GAO to testify before Congress on our fiscal exposures. The Secretary of the Treasury would have to testify on the Financial Report, which is a document that far too few Members of Congress, let alone the public, are aware of. While Members such as Mr. COOPER and Mr. KIRK have done a great job in recent years in starting to build awareness of this document, this proposal would take the next important step.

The Comptroller General would also have to report to Congress on the full extent of our fiscal exposures on an annual basis. This would go a long way toward ensuring that Members of Congress and the public start paying attention to these daunting figures. Our current Comptroller General, Mr. Walker, has fought vigorously on this matter and has done an excellent job of alerting people to the challenges we face. This would give him a regular forum in which to do so and allow him to continue performing an excellent service to the Nation.

Before I close, I would like to thank the other lead cosponsors for allowing me to join their effort. This issue is something that Mr. COOPER and Mr. KIRK have worked diligently on for years and I am glad to be a part of the latest version of their bill. Ms. BACHMANN also deserves immense credit for drawing on her financial background and striving to become a leader in Congress in this area. She was instrumental in putting together this legislation and ensuring the participation of such a strong bipartisan coalition.

I am truly hopeful that our fiscal exposures will not continue to go unnoticed and that we can help build congressional support for entitlement reform. The challenges we face are too big to ignore. If we do not level with the American people about the true nature of this problem and seek to address it, we will be jeopardizing the economy and standard of living of future generations.

MILITARY HONORS FOR VETERANS' FUNERALS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. FILNER. Madam Speaker, and colleagues, I rise today to speak about a bill that I have just introduced, "Providing Military Honors For Our Nation's Heroes Act" (H.R. 3954), to reimburse expenses of volunteers who provide military funeral honors at veterans' funerals.

Because thousands of servicemembers are deployed in Iraq and Afghanistan while thousands of World War II and Korean War veterans die each day, there is simply not enough military to provide a proper 7-person honors detail for these funerals. Some families of veterans have had to "make do" with a CD playing taps. I am saddened by this outrageous situation and determined to provide proper military funeral honors for all families who request them.

This bill will allow reimbursement to volunteers from members of veterans' service organizations (VSOs) and other organizations approved by the Secretary of the Department of Veterans' Affairs (VA). Transportation costs and other expenses, such as cleaning uniforms, incurred in providing funeral honors details will be reimbursed. A second change will allow reimbursement to details that are requested by funeral homes and the VA, as well as the Department of Defense, the current practice.

Currently, members of VSOs and other volunteers can assist the military by providing a color guard, pallbearers, a bugler or firing party, but the law does not address ceremonies in which VSOs render honors without military representation. My bill will allow volunteers to be reimbursed even when no military person is a part of the honor guard. This change will increase the number of honors details available to families. I urge my colleagues to support this bill.

INTRODUCTION OF A BILL PROVIDING TAX RELIEF WITH RESPECT TO THE CHILDREN OF MEMBERS OF THE ARMED FORCES WHO DIE AS A RESULT OF SERVICE IN A COMBAT ZONE

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. MEEK of Florida. Madam Speaker, I am pleased to introduce H.R. 3961, which would increase from $1,000 to $5,000 the maximum amount of the child tax credit allowed under section 24 of the Internal Revenue Code for those widows and widowers with children of the members of our Armed Forces who have been killed in combat in Iraq and in and around Afghanistan. The bill would also eliminate the income limits for our soldiers' families that have paid this ultimate sacrifice.

Madam Speaker, we can and should do everything we can to help out those families of our brave men and women who have made the ultimate sacrifice for our country. Those families have borne the brunt of this war—and all of us owe them a debt of our gratitude. Mothers are being forced to have tough conversations with their sons on why daddy is not coming home. Fathers are being forced to have tough conversations with their daughters on what happened to mommy. Families are being put in position where they have to struggle both emotionally and economically because of the stress a loss of a loved one places on them. Congress has a duty to do what we can to help these families in their time of need.

While nothing can make up for the loss of these precious lives, at least we can provide some tax relief for these families. These families now have a financial burden to face from the loss of a spouse's income. In many instances, the spouse that was killed in combat was the main breadwinner for the family. Increasing the child tax credit and eliminating the income limits will at least provide some tax relief.

This will provide real relief for almost 2,000 families. Of the troops killed in Iraq and in and around Afghanistan, many were married with

children. According to a report from the Military Homefront for the Department of Defense, 37.8 percent of active duty troops are married with children. The Department of Defense reports that as of October 22, 2007, the total number of military fatalities in Iraq and in and around Afghanistan totaled 4,273 for both conflicts. Based on this data, the Congressional Research Service has estimated that 1,615 troops who were married and had children have died.

Single parents have also been killed in defending our country. The Military Homefront states that 5.4 percent of active duty American troops are single parents. Using this data, CRS has estimated that 231 troops who were single parents have died.

Madam Speaker, we need to provide all of the help we can to these families of our fallen military. H.R. 3961 is a small way to assist those families who have lost a spouse and a parent to their children.

HONORING THE AMERICAN HUNGARIAN FEDERATION ON ITS 100TH ANNIVERSARY

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. LIPINSKI. Madam Speaker, I rise today to honor the American Hungarian Federation on their 100th anniversary. This group, formed in 1906 as a vehicle to advance and protect the interests of Hungarian-Americans, is one of the oldest ethnic organizations in the United States.

Hungarians have been outstanding contributors to our republic since the days of its inception, when Col. Commandant Mihaly Kovats, the Hungarian officer who led the first American cavalry into battle, died fighting the British at Charleston, S.C. in 1779. Their exceptional service and patriotism were again exemplified in 1906 when Hungarian-Americans raised funds for the erection of a statue of George Washington in Budapest, one of the first acts of the newly-formed American Hungarian Federation.

Since its creation, the Federation's noble mission has expanded greatly to assist Hungarians on both sides of the Atlantic as well as advance worldwide the causes of freedom and democracy. They have worked tirelessly to unite those of Hungarian descent, celebrate their shared culture, assist the needy members of their community, and provide relief and shelter to victims of Communist oppression.

In a powerful expression of solidarity with those all over the world who have suffered under Stalinist regimes, the American Hungarian Federation played a pivotal role in the creation of the Victims of Communism Memorial. This monument was dedicated on June 12th by the President of the United States and it honors the more than 100 million people killed worldwide by totalitarian communist regimes.

It is my privilege to honor the American Hungarian Federation on their 100th anniversary and extraordinary contributions to America. Their efforts and labors ensure a brighter future for Hungarians, at home and abroad, as well as for all those who yearn for freedom in our world.

RECOGNIZING THE AMERICAN HIGHWAY USERS ALLIANCE ON THE OCCASION OF ITS 75TH ANNIVERSARY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. OBERSTAR. Madam Speaker, I rise in strong support of H. Res 772, to recognize the American Highway Users Alliance on the occasion of its 75th anniversary.

Our Nation's roadways truly are the lifeblood of our economy and an integral part of our everyday lives. Our highway system unites Americans from every state and allows us to explore the diverse culture, geography, and attractions that America has to offer. Highways are critical to the mobility of our Nation by enabling the extensive movement of goods and people. Our highways make it possible for Americans to take more than 660 million trips to visit friends and family every year, and more than 110 million Americans use the highways to commute to and from work. People will travel three trillion miles on our Nation's roads this year. Without our national highway system, America would be a far different place.

The need to connect America with a system of interstate highways was obvious to President George Washington in the first year after our Nation was founded. While traveling to the Ohio country on horseback, Washington observed the isolation and vulnerability caused by a lack of interstate mobility. He also saw the economic impact that an interstate road would have for the viability and survival of the new Nation, and called for the development of a trans-Appalachian road to unify the young Nation. That route was authorized by Congress in 1806, and the "National Road" (later known as U.S. Route 40) became the first federally funded road in U.S. history.

A young Dwight Eisenhower came to a similar conclusion while accompanying an Army convoy from Washington, D.C., to San Francisco in 1919. Eisenhower found that the state of America's transportation system was deficient. Years later, as the Supreme Allied Commander in the Second World War, Eisenhower was impressed by the ability of the autobahns to move military material rapidly across Germany. As President, Eisenhower would sign into law the Federal-Aid Highway Act of 1956 which authorized the Interstate Highway System and established the Highway Trust Fund. The American Highway Users Alliance was instrumental to the passage of this landmark transportation legislation.

Founded in 1932, the American Highway Users Alliance has been a persistent and outspoken proponent for our Nation's highway. Known as the "Highway Users", the alliance has voiced the interests of motorists and businesses on major national highway and traffic safety legislation over the past 75 years. The Highway Users has worked tirelessly to protect the integrity of the Highway Trust Fund and State highway trust funds.

Madam Speaker, the Highway Users has been a consistent advocate in favor of strengthening the national highway network by promoting a strong Federal role in mobility and safety and by advocating policies that benefit all highway users.

For these and other contributions to the daily lives, the economic well-being, and the health and safety of the traveling public, I rise to recognize the outstanding achievements of the American Highway Users Alliance and its sustained contribution in service to our Nation, and to recognize the Alliance's 75th anniversary.

HONORING DR. LUIS LEAL

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mrs. CAPPS. Madam Speaker, today I rise to honor Professor Luis Leal on the occasion of his 100th birthday. Professor Leal is a distinguished member of the Santa Barbara community. He is a man who has devoted his life to scholarship and education, a man dedicated to expressing and revealing the richness of Mexican, Latin American and Chicano literature and culture.

Luis Leal was born in 1907 and grew up in Mexico City during the Mexican Revolution. He came to the United States seeking a college education and earned a bachelor's degree at Northwestern University. After a hiatus to serve in World War II, Leal earned his doctorate from the University of Chicago.

After a career teaching at the University of Mississippi, Emory University, and the University of Illinois, Leal "retired" to the Santa Barbara area at the age of 69, only to be invited to join the faculty at UC Santa Barbara as a scholar and teacher, first in the Spanish and Portuguese Department and then in the newly established Center for Chicano Studies.

Leal has enjoyed a distinguished career as one of the most highly regarded scholars of Mexican and Latin American literature, and was one of the first to draw attention to this relatively new field of study. He is the author of over 30 books and 300 articles. In 1988, he received the Distinguished Scholar Award from the National Association for Chicana and Chicano Studies in recognition of his lifetime achievement. In 1995, UCSB created the Luis Leal Endowed Chair in Chicano Studies in recognition of his accomplishments.

Leal has also received renowned cultural honors from the Mexican and American governments. In 1992, Mexican President Salinas awarded Leal the Mexican Order of the Aztec Eagle, the highest award granted to foreign citizens. It was President Bill Clinton who presented Leal with the National Humanities Medal in 1997.

As a man who has devoted his life to education and to advancing the study of Mexican, Latin American and Chicano Literature, I today recognize Luis Leal as a distinguished scholar and professor, and as a man dedicated to making our community and this Nation a richer, more vibrant place.

PERSONAL EXPLANATION

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. BISHOP of New York. Madam Speaker, I was speaking at the U.S. Navy Memorial ceremony in honor of my constituent, Lt.

Michael Murphy, who was posthumously awarded the Medal of Honor this week and I was not present in the House chamber to vote on rollcall 994.

I would have voted "yea" on rollcall 994 had I been present.

JOSHUA OMVIG VETERANS SUICIDE PREVENTION ACT

SPEECH OF

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 23, 2007

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of H.R. 327, the Joshua Omvig Veterans Suicide Prevention Act. As an original cosponsor who voted for its passage in the House earlier this year, I am pleased that this bill has passed both the House and the Senate. I look forward to sending this bill to the President with such overwhelming support.

H.R. 327 will expand awareness of the serious problem of suicide among veterans suffering from PTSD and of the special needs of veterans at high risk for depression. Furthermore, it would develop and implement a program that would include mandatory training for professionals who interact with veterans, screening for suicide risk factors, counseling and treatment for at-risk veterans, and 24-hour veterans' mental health care availability.

It is a sad reality that we as a Nation must face once again the repercussions of war, and it is equally tragic that we are forced to acknowledge where our system has failed our servicemembers and veterans. I will continue to work with my colleagues to forge solutions in correcting our military care structure to ensure they receive the care that they earned and deserve.

Mr. Speaker, passing this bill is one way to correct what is wrong with the current system. May we all recognize the service of those who have selflessly given to our country, especially those brave men and women who are serving today around the world. I know you join me in praying for their safe and quick return home.

IN PRAISE OF THE TRANSATLANTIC LEGISLATORS' DIALOGUE MEETINGS HELD EARLIER THIS MONTH IN LAS VEGAS, NEVADA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. LANTOS. Madam Speaker, I would like to call the attention of my colleagues in the Congress to a highly successful meeting of the Transatlantic Legislators' Dialogue (TLD) that was held in Las Vegas from October 5–8, 2007. The United States delegation is currently benefiting from the excellent leadership of Chairwoman SHELLEY BERKLEY, the gentlelady from Nevada. She worked tirelessly to make this meeting a great success and introduced her European guests to the fine city of Las Vegas that she represents.

Chairwoman BERKLEY first became a member of the TLD in April 2006, served as its vice-chair in December 2006, and took the reins during the new Congress in 2007. She has long been an advocate for transatlantic relations. She is ably joined by her Republican vice-chairman, Representative CLIFF STEARNS from Florida, who also has a history of European engagement.

The TLD constitutes the formal response of the European Parliament and the U.S. Congress to the commitment in the New Transatlantic Agenda (NTA) of 1995 to enhance parliamentary ties between the European Union and the United States. Building on the existing interparliamentary relationship, the TLD includes bi-annual meetings between American and European legislators that address topics of mutual interest with a view to fostering an ongoing dialogue and enhancing the level of transatlantic discourse.

The most recent session in Nevada focused on a wide range of foreign policy challenges, including the Middle East, Kosovo, Russia, and China. Another session focused on regulatory initiatives being addressed under the auspices of the newly established Transatlantic Economic Council in which legislators are involved for the first time in administration discussions regarding more effective regulation.

I particularly welcomed Representative BERKLEY's initiative to place anti-Semitism on the TLD agenda for the first time ever, as this issue must be seriously addressed by legislators on both sides of the Atlantic. The delegates also discussed the growing challenge of climate change. In addition, Representative BERKLEY showed her European counterparts a wide range of issues facing her constituency, bringing the delegation to Nellis Air Force Base to view military training facilities and arranging a briefing on Department of Energy plans to establish a safe repository for nuclear waste at Yucca Mountain.

I commend Chairwoman BERKLEY for the energy that she has brought to the Transatlantic Legislators' Dialogue, as well as the outstanding job she did organizing a productive and informative session in Nevada. Her attention to detail was remarkable as were her efforts to be a hospitable and thoughtful hostess, including inviting European consuls to attend evening events and renowned speakers to make opening remarks during meeting sessions. Chairwoman BERKLEY is an excellent ambassador of American goodwill towards the European Union, and I am deeply grateful for the outstanding work she has done as leader of the American delegation of the TLD.

Madam Speaker, I would like to enter into the CONGRESSIONAL RECORD the joint statement that was agreed upon by American and European legislators at the 63rd meeting of the TLD in Las Vegas. It highlights the rich agenda of this meeting, as well as the numerous areas in which there was strong agreement across the Atlantic.

TRANSATLANTIC LEGISLATORS' DIALOGUE 63RD MEETING OF DELEGATIONS FROM THE UNITED STATES AND THE EUROPEAN PARLIAMENT—JOINT STATEMENT

We, Members of the European Parliament and the United States House of Representatives, held our 63rd interparliamentary meeting (Transatlantic Legislators' Dialogue) in Las Vegas, Nevada on 5–8 October 2007.

Building on the joint statement issued following our last meeting in Charleston on 1–3 December 2006, we stressed the importance of regular dialogue on a range of political, social and economic issues that affect all of our citizens. We agreed to report back to our parent bodies on the content and outcome of our discussions, particularly in the areas where joint efforts are likely to result in positive outcomes.

We agreed that legislators on both sides of the Atlantic should increase dialogue and consultation amongst themselves in order to prevent possible conflicts of legislation. Direct and timely contacts between specialist committees from Congress and the European Parliament—such as those that have occurred in recent months within the TLD framework—have been valuable means of enhancing cooperation; the exchange of information should be continued and enhanced. The European delegation welcomed the invitation from the U.S. House Subcommittee on Horticulture and Organic Agriculture to discuss agricultural issues and organic farming in greater detail.

We examined a wide array of foreign policy issues, agreeing that joint action by the United States and the European Union is the most effective way to approach problems that affect both sides ofthe Atlantic. We had a stimulating discussion led by Ambassador Dennis Ross on the myriad of challenges in the Middle East, particularly regarding the nuclear threat posed by Iran and efforts to further the peace process in the region. We discussed the future status of Kosovo, including the importance of maintaining peace and stability in the Balkans. We expressed concerns about worrying developments in Russia's domestic and foreign policies and agreed to discuss these issues in greater detail at our next session.

We assessed our economic and political relations with China, emphasizing the importance of toy and product safety as well as the need for transparency in China's financial and business practices. In particular, we called on China to play a greater role in promoting a peaceful resolution to the ongoing conflict and particularly to the current violent crackdown in Burma. We also called upon China to assist in solving the horrific humanitarian crisis in Darfur.

During the dialogue we explored the current status of anti-Semitism, anti-discrimination, race hate and civil liberties in the United States and Europe. Abe Foxman of the Anti-Defamation League provided an overview of the current situation. We agreed to continue our open discussion about these issues at future meetings as well as to address them within the United States and EU Member States.

We discussed climate change following an informative presentation by Michael Totten of Conservation International. We agreed to continue exchanging strategies for combating the environmental challenges confronting our planet.

We also: 1. had a briefing at Nellis Air Force Base and visited the facility designated for training American and coalition military personnel; we also saw a presentation about the Thunderbird pilots and viewed the F–22 fighter plane.

2. heard a briefing by the United States Department of Energy regarding its plans to establish a safe repository for nuclear waste at Yucca Mountain as well as concerns summarized by the Nevada Agency for Nuclear Projects.

We welcomed the establishment of a Transatlantic Economic Council (TEC) at the April 2007 EU–US Summit. We agreed that the TEC initiative should be characterized by transparency and consultation of stakeholders: legislators, consumers, and producers should be informed in a comprehensive and timely manner by the EU and US executive bodies on the advancement of activities as well as the definition of priorities for future work. The establishment of the

'advisory group' to the TEC, which includes the leaders of the three dialogues constituted under the New Transatlantic Agenda, is an important step in this direction. Furthermore, we believe that awareness of the transatlantic impact of proposed legislation and regulation should be developed in the relevant legislative and regulatory bodies.

Our discussions focused on a range of regulatory issues that will affect legislators in the United States and the European Union. With regard to priorities for future activities within the TEC, the TLD welcomed progress on items contained in the list of 'lighthouse projects' and related initiatives included in the 2007 Summit declaration. In particular, we developed a series of recommendations that we agreed should be taken into account during the TEC's first meeting on 9 November 2007:

With regard to accounting standards, efforts should be made to reach agreement on the equivalence of US GAAP and IFRS (as implemented by the EU) in order to avoid requirements for reconciliation. Important progress registered in recent discussions between regulators needs to be finalized as soon as possible.

With regard to trade and cargo security, achieving reciprocity and mutual recognition of security standards is of the utmost importance. We recognized concerns about the recently-passed U.S. legislation requiring 100 per cent cargo scanning.

With regard to intellectual property, a commitment is needed to harmonize the different patent regimes on the basis of the 'first-to-file' system.

With regard to investment, obstacles to bilateral investment should be addressed via an operative dialogue.

With regard to biofuels, developing compatible specifications between the EU and U.S. is a clear priority, particularly in view of achieving wider international harmonization at International Standards Organization (ISO) level.

With regard to the safety of toys and other products, recognizing that it represents a major concern to consumers on both sides of the Atlantic, improvements should be discussed between regulators and complementary standards should be developed.

Both sides renewed their commitment to make the TLD's work more relevant to the United States House of Representatives and to the European Parliament. In so doing, we resolved to provide the TLD with the required resources to improve the effectiveness of our dialogue and realize the full potential of our interparliamentary relationship.

HONORING THE TOWN OF BARNSTABLE

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. DELAHUNT. Madam Speaker, I rise today so that my colleagues in the House of Representatives can join me in recognizing the Town of Barnstable, Massachusetts for its distinguished achievement in being named one of 2007's "All-America Cities."

For 58 years, the National Civic League's "All-America City" Awards have been presented to localities that demonstrate an exceptional ability to rise to the challenges involved in building and sustaining safe, healthy communities. Toward this end, the Town of Barnstable continues to be a model for civic engagement, excelling in its efforts to involve the business community, nonprofit organizations, and citizens in developing ingenious solutions to local problems.

While the Town of Barnstable has applied the same cooperative approach in tackling a wide array of challenges, three in particular merit its designation as one of this year's ten "All-America Cities." Under its visionary "economic development stimulus plan," the Town of Barnstable breathed new life into the Main Street and waterfront areas of downtown Hyannis. This initiative helped to promote growth in an environmentally and socially responsible way, while boosting the area's cultural richness and scenic beauty.

Thanks to the Town's multi-pronged Affordable Housing Plan—an ambitious project that aims to secure 1,000 units of housing over a 10-year period—residents making below 80 percent of the area's median income will have expanded opportunities to make home ownership a reality.

Finally, the Town's creation of a Youth Commission has ensured the area's young people have a strong voice in the democratic process, advising the Town Council on the legislation and issues that matter most to Barnstable's youth and families.

It gives me pride to see the Town of Barnstable receive national attention for all the hard work and dedication that I have long admired. As we pause to reflect on this prestigious honor, I want to commend all the residents of Barnstable for their collective efforts to make the community a better place to live and work.

I particularly want to thank Town Manager John Klimm for his admirable leadership, and for seeing through the initiatives that have made Barnstable an "All-America City." Congratulations on an award well-deserved. For today, tomorrow, and long into the future, I have great confidence that the Town of Barnstable will continue to serve as a model for communities all across the country.

CONGRATULATING LA VEGA HIGH SCHOOL CLASS OF 1957 ON ITS 50TH REUNION

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. EDWARDS. Madam Speaker, I rise today to congratulate the members of the La Vega High School Class of 1957 on their 50th reunion. It is a privilege to represent La Vega High School, located in Bellmead in my district.

The members of the La Vega High School Class of 1957 have made great contributions to our Nation, State, and Central Texas community. They have served us as soldiers, teachers, doctors, clergy, leaders in Federal, State, and local government, captains of business and industry, and all facets of American life. In short, the diverse lives and accomplishments of the La Vega High School Class of 1957 have contributed significantly to the social fabric of our State and Nation and their ongoing contributions to our American way of life will be felt for years to come.

I congratulate them on this special occasion and wish them all the best in the years ahead.

Members of the La Vega High School Class of 1957: Joe Aleman, Annette Brown, Mildred Andrle, Leo Bales, Elden Barrett, Billy Beechly, David Bounds, Stanley Boyd, Keith Branch, Juanita Kellough, Judy Braswell, Virginia Brink, Karen Bruner, Edie Bridges, Sarah Burch, Quincy Butler, Jo Campbell, Curtis Carpenter, Ken Christensen, Wanda Christopherson, Anita Colunga, Dan Crum, Jack Culverhouse, Charles Cooper, Jerry Davis, Wendell Davis, Kay DeArmon, Carrol Deaton, Margaret DeLoach, Carl Diver, Garland Dorsey, Juanita Embry, Suzanne Francis, Mildred Fridel, Bobbie Gill, Beth Goodman, William Glaser, Thomas Guinn, Jerry Haak, Wayne Harris, Robert Hawkins, Harold Hern, Darlene Hite, Dean Hord, Anita Ibsen, Karen Johnson, Albert Kilgo, Judie King, Lou Lee, Barbara Lemonski, Betty Love, Linda Loveless, Bonnie Lundy, Barbara Mabry, Kenneth Makowski, Thomas Matthys, Nancy McDaniel, James McKee, James McKinney, Joe Moody, Barbara Moore, Janell Morris, Francis Nivers, Norma Parker, Mary Pickens, Henry Plemons, Barbara Phillips, Beverly Poston, Carol Allen, Daniel Ramos, Irene Rinehart, Albert Roberts, Lida Rush, Shirley Scott, Patricia Shaver, Donald Scruggs, Dorothy Sharp, Emily Spurlock, John Spurlock, Martha Staley, William Strahl, Patty Sutton, Evelyn Sykora, James Saul, Bobby Tacker, Dixie Taylor, Bobby Thompson, Melvin Thompson, Shirley Toon, Robert Turk, Bille Usher, Sarah Webb, Glenn Whatley, Rita White, Robert White, Martha Wilkerson, Bobby Williams, Wilburn Willis, Bonita Wood.

IN HONOR OF DR. WILLIAM J. LAWHORN, UNITED STATES ARMY AIR CORPS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. SESSIONS. Madam Speaker, I rise today in honor of Dr. William J. Lawhorn, a World War II veteran. In 1944, he enlisted in the Army Air Corps at the young age of 18.

His original intention was to become a pilot, but two weeks before he was due to enter flight school, it was shut down. Out of his squadron of 125, only eight were selected to remain in the Air Corps while the others were sent to the infantry. He went on to attend radio school and was assigned Kitchen Police duties.

World War II is known as the deadliest conflict in human history, taking the lives of over 70 million people. During this difficult time, our country stood united behind our brave servicemen and women who so willingly took to the battlefields to defend freedom and democracy. It is veterans like William that helped us emerge victorious from World War II and restore hope and humanity in a world that was shattered by the darkness of hatred and violence.

His patriotism, courage, and selflessness are examples of what make America great. Madam Speaker, I ask my esteemed colleagues to join me in expressing our deepest gratitude for his service to this great Nation. May God bless all those he loved, and may I convey to them my sincerest condolences and the gratitude of the American people.

BURMA

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. PITTS. Madam Speaker, due to the current crisis in Burma, it is vital that even while media coverage of the situation in Burma has decreased we still maintain a constant watch over Burma. The regime's human rights violations are horrific. I have stacks of reports in my office detailing the dictatorship's use of rape as a weapon of terror, the use of ethnic minorities as human landmine sweepers, and many other abuses.

On September 18, 1988, the military forced its rule on the people of Burma, a rule that has been dominated by severe violence and oppression. Ever since, the people of Burma have struggled to survive under this brutal regime.

While the Buddhist monks and democracy leaders have received much deserved attention recently, the struggle of the ethnic minorities remains difficult and also must receive the spotlight of international attention'. Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, defines genocide as ''any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.'' Reports make clear that the ironically-named State Peace and Development Council (SPDC) of Burma, the ruling military junta, has engaged in a deliberate policy to eliminate the ethnic minorities. The regime engages in a scorched earth policy, destroying entire villages along with food storage and production sources; use systematic rape as a weapon of terror; uses ethnic minorities, including women and children, as human landmine sweepers; engages in forced labor, also known as slavery; has the highest number of child soldiers in the world; and refuses to allow the duly elected leader of the country to take office.

While there is extensive photograph evidence of more recent massacres, I want to draw attention to a massacre that took place in Burma's Dooplaya district on April 28th, 2002. The regime targeted children. These photos, which show the bodies of the victims stacked neatly, are incontrovertible evidence of the regime's crimes against humanity and the increasingly horrific human rights situation in the country. The regime's soldiers shot and killed the Karen villagers in their quest to completely subjugate the entire country. The dozen who were killed include Naw Pi Lay, who was just a baby, Naw Daw Bah, a 2-year-old girl, and Naw Play and Naw Ble Po, two five year old girls. Nine others were shot and lucky enough to escape, including a six-year-old boy who played dead until the regime's troops left. What possible threat could these babies and young girls have presented to Burma's military regime?

The various ethnic minorities of Burma, which comprise approximately 60 percent of the population, are not of the Burman ethnic group. The desire of the junta, composed of members of the Burman ethnicity, is to ensure that it remains the ''master race,'' or maha bama. In 1988, the regime issued a blood assimilation order which stated, ''With a view to attain success in accordance with our basic aspiration, which holds that our one race, the Burmans alone must inherit prosperity with an achievement of a long standing dominion. The easiest way to realize our above aim, we, the superior sons of the mainland of Burma are to employ the strategy of 'Blood Assimilation' against the female members of other non-Burman ethnic races. Our objective is to take marital possession of their women.'' Soldiers are instructed to dilute the bloodlines of the ethnic minorities in order to ''purify'' them and make them more Burman. While some might dispute the use of genocide in relation to this situation, it is clearly, at the very least, ethnic cleansing.

Astonishingly, other nations are enabling the dictators to continue their attacks against the ethnic minorities, democracy activists, protestors and Buddhist monks. Reports suggest that since 1989, the Chinese government has provided the dictators in Burma with over $2 billion worth of weapons and military equipment. This Chinese weaponry has allowed the regime to quadruple the size of its forces to 450,000.

Russia also is supporting the dictatorship by helping build a nuclear reactor in Rangoon. The regime says the reactor is for peaceful purposes for medical research. However, Burma is ranked second from the bottom by the World Health Organization in terms of national health care, thus begging the question why they need nuclear medical research when there are barely even provisions for basic medical needs.

European Union non-governmental organizations recently released a report entitled Indian Helicopters for Burma: making a mockery of embargoes? The report provided details on India's negotiations with Burma's military junta since late 2006 and focused on the transfer of Advanced Light Helicopters (ALH) to Burma's military. India, the world's largest democracy, has increasingly spurned democracy supporters in Burma in favor of increased cooperation with Burma's military regime, even providing Burma's ruling generals with tanks, aircraft, artillery guns, radar, small arms, and the ALH. Absent any external enemy, Burma's military rulers have employed these arms and military equipment against its ethnic minority civilian population, resulting in the destruction of more than 3,000 villages, the use of forced labor, and the rape and murder of thousands of ethnic minority civilians.

Even more appalling than the increased military cooperation and sales between the Government of India and Burma's military regime is evidence that the transfer of military hardware risks violating both European Union and U.S. arms restrictions in place against Burma's military regime. Parts and technologies vital to the manufacture of the ALH were provided by several European companies and two American companies, Aitech Systems, Ltd. and Lord Corporation. It is essential that our government immediately investigate whether or not the inclusion of American parts and technologies in the production of India's ALHs and the potential impending transfer of the ALHs from the Government of India to Burma's brutal military generals violate U.S. export control regulations and the U.S. arms embargo on Burma.

Sadly, until recently, the international community generally has turned a deaf ear to the cries of the ethnic minorities, the refugees, the IDPs, and the democracy activists. While a number of states and international organizations currently have made helpful statements condemning the dictatorship for its actions, they long ago should have been helping the people of Burma. Action is what will bring change to the situation in Burma.

The SPDC regime deceives the international community again and again by saying one thing and then doing another. The international community, on behalf of the people of Burma, should make it clear that the oppressive dictators of Burma will no longer be tolerated—we do not want to remember another anniversary of the human rights violations against Burma's people. Instead, next year, we should be celebrating the return of democracy and freedom to the people of Burma.

I strongly commend the EU for increasing sanctions against the brutal regime and I applaud the government of Japan for cutting its aid to the dictatorship.

I also commend recent steps against the dictatorship by our Administration. However, I urge our Administration and my colleagues in Congress to act to support democracy in Burma and provide increased aid to the suffering ethnic minorities. We should exponentially increase the U.S. aid program to Burma by increasing aid to IDP, refugee, and democracy organizations, as well as by providing funding to help rehabilitate child soldiers, establish health programs addressing malaria, TB, and HIV/AIDS, support education programs, increase human rights documentation capabilities, and assist with protection capabilities. The U.S. government spent approximately 100 million trying to help the people of Serbia against Milosevic—the people of Burma are as important as the populations of Southeast Europe and we need to put our money where our mouth is.

Further, the U.S. government must take immediate steps to implement the recommendations outlined in the report on Indian helicopters and other weapons by commencing negotiations with the Government of India to cease the transfer of Advanced Light Helicopters to Burma's military regime; discontinuing all future defense production cooperation with India that might lead to transfers of embargoed controlled equipment to Burma; attaching to all future licenses for transfers of controlled goods and technology to India a strict and enforceable condition, with penalty clauses prohibiting re-export to states under an embargo to which the original exporting state is party without express governmental permission; and drawing attention to the high likelihood of that military equipment being used by Burma's military to commit ethnic cleansing and crimes against humanity in violation of international law including international human rights and humanitarian law.

The U.S. government and the international community together must press China and Russia to immediately cease their cooperation with and support for the brutal dictators in Burma. In addition, I urge the international community to press Burma's regime to cease the violence and murder perpetrated against the people, to immediately and unconditionally

release all political prisoners, and to allow the legitimately elected leaders of the country to govern. Further, the government of Singapore should freeze the bank accounts of the dictators.

Madam Speaker, it is time for the world to act to stop the honors taking place in Burma. While the military regime woos diplomats and guests in downtown Rangoon, Burma's people outside the realm of international scrutiny endure intensifying and acute repression. I demand that Burma's military regime immediately stop its campaign of terror against the Burmese people, and urge my colleagues to raise their voices for freedom.

I reiterate, public statements in support of the people of Burma are helpful, but only issuing statements is like putting a tiny band aid over a gaping, infected wound—it will not help where massive surgery is needed. The only thing that will solve the problem of the brutal dictatorship in Burma is to get rid of the SPDC.

I look forward to working with my colleagues in the House, the Senate and the Administration, and the international community to see that Burma's military regime soon joins the Soviet Union, Ceausescu's Romania, Milosevic's Yugoslavia and other regimes and dictatorships that now reside in the ashbin of world history.

Finally, I say to the people of Burma: You are not forgotten. We stand with you and will continue to work with you for as long as it takes to ensure that the people of your nation are able to live in peace and freedom.

IN RECOGNITION OF JACKSONVILLE ELKS LODGE #221

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. CRENSHAW. Madam Speaker, I would like to recognize the admirable efforts of the Jacksonville Elks Lodge #221 for the outstanding service they have provided our nation's veterans. In these uncertain times where foreign radicals continue to pose a threat to our Nation and our troops continue to fight this threat overseas, their contributions are made even more significant.

Over the past 3 years, the 352 members of Jacksonville Elks Lodge #221 have raised almost $42,000 and donated much needed supplies for our veterans. They have traveled almost 39,000 miles to veterans hospitals, nursing homes and private homes of veterans and have invested almost 2,500 hours of service to our veterans population.

Every month members of Jacksonville Elks Lodge #221 visit the Veterans Administration Medical Center in Lake City to volunteer their time for our veterans and have supported more than 100 homeless veterans each year through donations and goods to the City of Jacksonville's Homeless Veterans Stand-Down. Currently they have adopted four veterans whom they are assisting with shopping, groceries, transportation to and from medical appointments and other day-to-day activities. They have held luncheons and provided support for spouses and families of deployed service men and women and adopted units deployed to Iraq and Afghanistan, sending them supplies and recreational equipment.

Taking into account their service for our veterans community, it is no surprise that at least three of the recent past State Veterans Chairpersons of the Florida State Elks Association Veterans Service Committee have come from this Lodge and their current Chairperson was selected as the Female Veterans Services Volunteer of the Year for the State of Florida in an award presented at the Florida State Elks Convention in June 2005.

It is my distinct honor to call the members of the Jacksonville Elks Lodge #221 my friends and neighbors and I am proud to represent them as their Member of Congress. On behalf of Jacksonville and our entire Nation, I would like to express my utmost appreciation and offer them our thanks for their service to our community.

RECOGNIZING THE 60TH ANNIVERSARY OF THE MENDEZ V. WESTMINSTER DECISION

SPEECH OF

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 22, 2007

Ms. SOLIS. Madam Speaker, I rise today in strong support of H. Res. 721, which would recognize the 60th anniversary of the Mendez v. Westminster decision. This landmark decision ended segregation of Mexican and Mexican-American students in California schools.

On March 2, 1945, a group of concerned Mexican-American fathers, led by Gonzalo Mendez, challenged the practice of school segregation in the U.S. District Court in Los Angeles, California. These fathers claimed that their children, along with 5,000 other children of Latino descent, were victims of discrimination by being forced to attend separate "Mexican" schools in the Westminster, Garden Grove, Santa Ana, and El Modena school districts of Orange County, California. The U.S. Court of Appeals for the Ninth Circuit ruled in favor of the families and held that the segregation of Mexican and Mexican-American students into separate schools was unconstitutional. This California case won access for Mexican-Americans to all schools in 1947 and helped lay the foundation seven years later for the U.S. Supreme Court decision in the Brown v. Board of Education case.

Latinos are the fastest-growing student population. Approximately 32 percent of children enrolled in our Nation's public school are Latino. The status of Latino education suggests a number of missed opportunities from early childhood education through higher education. For example, families of 67 percent of Latino children under the age of three have an income that is 200 percent below the federal poverty threshold. Economic hardship is a reality for these families and has an adverse effect on child development and school readiness. In 2004, only 58 percent of Latinos had completed high school and 12 percent completed college.

Madam Speaker, it is important that Congress honor and recognize the civil rights implication of the Mendez v. Westminster case. I urge my colleagues to support this resolution and learn from the lessons of this Nation's history. Like Gonzalo Mendez and the rest of the fathers who led the fight in Mendez v. Westminster, we must continue the fight to close the education gap in our country. Educating our children is a commitment we must keep.

HONORING THE TOWN OF BARNSTABLE

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. DELAHUNT. Madam Speaker, I rise today so that my colleagues in the House of Representatives can join me in recognizing the Town of Barnstable, Massachusetts for its distinguished achievement in being named one of 2007's "All-America Cities."

For 58 years, the National Civic League's "All-America City" Awards have been presented to localities that demonstrate an exceptional ability to rise to the challenges involved in building and sustaining safe, healthy communities. Toward this end, the Town of Barnstable continues to be a model for civic engagement, excelling in its efforts to involve the business community, nonprofit organizations, and citizens in developing ingenious solutions to local problems.

While the Town of Barnstable has applied the same cooperative approach in tackling a wide array of challenges, three in particular merit its designation as one of this year's ten "All-America Cities." Under its visionary "economic development stimulus plan," the Town of Barnstable breathed new life into the Main Street and waterfront areas of downtown Hyannis. This initiative helped to promote growth in an environmentally and socially responsible way, while boosting the area's cultural richness and scenic beauty.

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Finally, the Town's creation of a Youth Commission has ensured the area's young people have a strong voice in the democratic process, advising the Town Council on the legislation and issues that matter most to Barnstable's youth and families.

It gives me pride to see the Town of Barnstable receive national attention for all the hard work and dedication that I have long admired. As we pause to reflect on this prestigious honor, I want to commend all the residents of Barnstable for their collective efforts to make the community a better place to live and work.

I particularly want to thank Town Manager John Klimm for his admirable leadership, and for seeing through the initiatives that have made Barnstable an "All-America City." Congratulations on an award well-deserved. For today, tomorrow, and long into the future, I have great confidence that the Town of Barnstable will continue to serve as a model for communities all across the country.

HONORING THE MINISTRY OF CARING OCTOBER 24, 2007

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. CASTLE. Madam Speaker, it is my great pleasure to rise today and recognize the Ministry of Caring on its 30th anniversary. Over the past three decades this remarkable charity has done extensive work with underprivileged populations in my home state of Delaware. This important milestone is cause for much celebration.

The Ministry of Caring began when its founder, Brother Ronald Giannone, set out on a mission to provide the poor with hospitality, friendship, and basic needs in such a way that would enable them to become independent and self-sufficient. Brother Ronald was unaware of his impact at the time, but he was actually setting out on a mission that would later become Wilmington's largest charity for the poor. Brother Ronald's vision first took shape in 1977 with the creation of the Mary Mother of Hope House, a shelter for homeless and destitute women. From there, the ministry's vision spread throughout our community at staggering speeds. The Ministry of Caring now operates nearly 30 facilities throughout the greater Wilmington area. Through these facilities, the Ministry runs over a dozen programs geared toward providing the poor with food, shelter, clothes, healthcare, and other essentials. Furthermore, the organization provides tools of empowerment such as job training and placement; resources that address root causes of poverty.

Though the ministry remains focused on helping disadvantaged populations, I can say from personal experience that the Delaware community as a whole is positively impacted by this organization. For many years now, my wife and I have had the privilege of volunteering our Thanksgivings at the Emmanuel Dining Room, serving meals to Delawareans in need. I cherish these opportunities because they allow me, and others just like me, to help less fortunate community members, while also spending quality time with family, friends, and fellow volunteers.

Recently the Ministry of Caring was given the highest possible score from the largest evaluator of charitable organizations in the world. While news of this accomplishment is certainly exciting, it is not at all surprising. The score affirms what many of us knew already: the ministry efficiently manages its finances, is worthy of the public's trust, and is highly regarded within its field.

On this 30th anniversary, I would like to recognize the many accomplishments of the Ministry of Caring. The hard work and dedication of its founder, Brother Ronald Giannone, along with its many employees and volunteers, have made these past 30 years a tremendous success. I highly commend this great organization for their immeasurable contributions to the state of Delaware and wish them all the best on this momentous anniversary.

IN RECOGNITION OF THE 125TH ANNIVERSARY OF THE ESTABLISHMENT OF CROOK COUNTY, OREGON

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. WALDEN of Oregon. Madam Speaker, I rise today to pay special tribute to the citizens of Crook County, Oregon who are celebrating the 125th anniversary of the establishment of their county this month.

The Enabling Act, creating Crook County from the southern portions of Wasco County, was approved and signed by the Governor of Oregon on October 24, 1882. He appointed 10 officials to govern the county: County Judge; 2 Commissioners; Assessor; County Clerk; Coroner; School Superintendent; Sheriff; Surveyor; and Treasurer.

Prineville, the county seat, is the oldest community in Central Oregon. In 1868 Barney Prine came to the Crooked River Valley and set up a blacksmith shop, saloon, and primitive country store along the banks of the Crooked River, A Post Office was established in 1871 and was named Prine in Barney's honor. The name of the Post Office was changed to Prineville in 1872.

The county is named after Major General George Crook, U.S. Army. General Crook was an 1852 graduate of the United States Military Academy at West Point, a hero of the Snake Indian Wars, and, at the time of his death in 1890, was Commander of the Army's Department of the West.

When it was founded in 1882, Crook County encompassed an area of 8,600 square miles and had a population of only 2,500. In 1914 and 1916 Jefferson and Deschutes counties were carved out of Crook County leaving it at just under 3,000 square miles today, with a population of approximately 23,000.

Some of the more noteworthy events in the county's early history include: the building of the first county courthouse in the county seat of Prineville at a cost of $5,474 in 1886; the first electrical service in Prineville in 1890; the first telephone service in the county in 1899; the opening of the first high school in 1905; and the first movie theater in 1909.

Between 1930 and 1940 Prineville became the nation's largest shipping point of pine lumber; in 1934 the Prineville Airport was dedicated; in 1940 the first dial telephones were installed in the county; and in 1952 the late Les Schwab opened his first tire store in Prineville, the very beginning of what is now one of the leading independent tire dealerships in the country with more that 7,000 employees and 400 stores throughout the western United States.

Today, Madam Speaker, the citizens of Crook County celebrate 125 years of rich pioneer heritage in their Central Oregon home, and look forward to an increasingly bright future in a growing and revitalized county. I am proud to represent the citizens of Crook County in the U.S. House of Representatives, and look forward to county's continued success.

HONORING TONYA G. JONES

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mrs. BLACKBURN. Madam Speaker, I ask my colleagues to join me in congratulating Tonya Jones, a small business leader and president of Mark IV Enterprises, Inc. in Nashville, as she is inducted into the 2007 Building Industry of Tennessee Hall of Fame.

Tonya Jones has been a trailblazer in the building industry throughout her career. She became involved in construction in Nashville in 1980, started her own business in 1985, and in 1986 was the first woman elected to serve on the Builders Board for the Home Builders Association of Middle Tennessee.

Tonya Jones was instrumental in the establishment of the Home Builders Association of Middle Tennessee's Legal Defense Fund, and was the first to urge that HBAMT move forward with litigation against a county for unfair housing policies. Additionally, she was highly influential in cementing the success of the Self-Insured Worker's Compensation Trust Fund as one of its founding Trustees.

Tonya Jones has been named a Life Director for the National Association of Homebuilders, and in 1995, she earned the Home Builders Association of Tennessee's highest honor, Builder of the Year. The Better Business Bureau recognized her integrity and ethics in business by naming her Ambassador of the Year in 2006.

In addition to these accomplishments, Tonya Jones has served on boards of directors for numerous organizations, including Habitat for Humanity, the Better Business Bureau, TRICOR, Nashville Metropolitan Planning Commission, U.S. Bank Regional Board, and Nashville's Metropolitan Board for Parks and Recreation.

Madam Speaker, please join me in honoring Tonya Jones for her exemplary contributions in business and in our community, and in congratulating her on this well-deserved award.

INTRODUCTION OF RESOLUTION ON COMMENDING THE ALASKA ARMY NATIONAL GUARD FOR ITS SERVICE TO THE STATE OF ALASKA AND THE CITIZENS OF THE UNITED STATES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. YOUNG of Alaska. Madam Speaker, I rise today to honor 586 members of the Alaska Army National Guard's 3rd Battalion, 297th Infantry who recently returned from their yearlong deployment to southern Iraq and Kuwait. The guardsmen have been successfully serving as security forces in northern Kuwait and southern Iraq since October 2006, guarding camps and convoys heading into Iraq. The guardsmen come from all over my State, with members of the unit hailing from 80 different communities across Alaska including Anchorage, Fairbanks, Kodiak, Soldotna, Kenai, Nome, and many native villages. The unit also included National Guardsmen from New York, Mississippi, Illinois, Georgia, and Puerto Rico.

This was the largest deployment of the Alaska National Guard since World War II and thankfully all 586 guardsmen who were deployed overseas returned home safely. Many of these guardsmen had never left Alaska prior to joining the National Guard, but none hesitated to serve their country.

As I told the National Guardsmen at their welcome home ceremony at Camp Shelby, Mississippi, "You can't support the troops unless you respect them. And I humbly respect you because you have done your job as you were charged to do so, and as volunteers. You left your families and you went forth and accomplished what you were taught to do."

I truly believe that the importance of the National Guard to our country cannot be overstated, which is why it is important that we honor these citizen-soldiers. For this reason I am introducing the following resolution to honor these Guardsmen for their outstanding service to our country.

H. CON. RES. 240

Whereas the 3rd Battalion, 297th Infantry of the Alaska Army National Guard deployment of almost 600 Alaskans was the largest deployment of the Alaska National Guard since World War II;

Whereas the Alaskans of the 3rd Battalion, 297th Infantry came from 80 different communities across Alaska;

Whereas the 3rd Battalion, 297th Infantry included 75 soldiers from New York, Mississippi, Illinois, Georgia and Puerto Rico;

Whereas the 586 soldiers of the 3rd Battalion, 297th Infantry were mobilized in July of 2006 and deployed to Camp Shelby, Mississippi;

Whereas the 3rd Battalion, 297th Infantry was deployed to Camp Navstar and Camp Buehring in Northern Kuwait;

Whereas the 3rd Battalion, 297th Infantry courageously performed route and perimeter security missions, mounted combat patrols and inspections and searches of vehicles going into Iraq from Kuwait, among other assignments;

Whereas the 3rd Battalion, 297th Infantry, over the course of 15 months in Kuwait and Iraq, inspected and searched over 30,000 semi-trucks;

Whereas the 3rd Battalion, 297th Infantry designed all force protection plans in northern Kuwait;

Whereas the families of the members of the 3rd Battalion, 297th Infantry have provided unwavering support while waiting patiently for their loved ones to return;

Whereas the employers of members and family members of the 3rd Battalion, 297th Infantry have displayed patriotism over profit, by keeping positions saved for the returning soldiers and supporting the families during the difficult days of this long deployment, and these employers are great corporate citizens through their support of members of the Armed Forces and their family members;

Whereas the 3rd Battalion, 297th Infantry has performed admirably and courageously; gaining the gratitude and respect of Alaskans and all Americans; and

Whereas members of the 3rd Battalion, 297th Infantry received 7 Bronze Stars, 23 Meritorious Service Medals, 142 Army Commendations and more than 200 Army Achievement Medals for their outstanding service: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) commends the 3rd Battalion, 297th Infantry of the Alaska Army National Guard upon its completion of deployment and brave service to the Commonwealth of Alaska and the citizens of the United States; and

(2) directs the Clerk of the House of Representatives to transmit a copy of this resolution to the Adjutant General of the Alaska National Guard for appropriate display.

HONORING FORMER CONGRESSMAN CHARLES VANIK

HON. BETTY SUTTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Ms. SUTTON. Madam Speaker, I rise today with a heavy heart to pay tribute to former Congressman Charles Vanik, who served his constituents with honor and integrity in this body for 26 years.

On behalf of the people of Ohio's 13th District, I want to express my deepest sympathies to his wife of 62 years, Betty Best Vanik, their two children, John Vanik and Phyllis Vanik, his two grandchildren and the rest of the Vanik family.

We have lost a man who dedicated his life to serving our great State and this great country. Prior to being elected to Congress in 1954, Congressman Vanik served on the Cleveland City Council, in the Ohio State Senate and as a Cleveland municipal judge. He also served in the Navy during World War II.

In Congress, he earned a reputation as savvy legislator and a tireless advocate for the people of northeast Ohio. His 1974 amendment to the Trade Reform Bill is widely remembered for forcing the Soviet Union to allow fair treatment and increased emigration of Soviet Jews. This accomplishment had a significant impact on American-Soviet relations.

And Congressman Vanik was ahead of his times on civil rights, sacrificing his own congressional seat in 1968 so that Louis Stokes could become Ohio's first African American Congressman.

But Charles Vanik was so well-regarded in northeast Ohio that voters from the neighboring district would not stand for him leaving this House, and they chose to send him to Congress instead of the Representative who had served for nearly 30 years. Congressman Vanik returned to Congress and continued to work with Congressman Stokes and others to advocate for the people of Ohio.

Although I did not have the privilege of serving in the House with Congressman Vanik, I am honored to follow in his footsteps as a public servant and a voice for the people of Ohio.

It is truly an honor to stand on the Floor of the House of Representatives, where Charles Vanik stood for so many years fighting for northeast Ohio, to celebrate his life and his accomplishments.

And it is wonderful to hear so many touching stories about the memories my colleagues have of him and the influence he had on this House and its Members.

Although Congress, the United States, and the State of Ohio have lost a great statesman, he has been outlived by his legacy, and I am confident that we will continue to fondly recall Charles Vanik and the great work he did for years to come.

Again, I want to express my condolences to the Vanik family.

HONORING FORMER CONGRESSMAN CHARLES VANIK

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Ms. KAPTUR. Madam Speaker, it is my honor to pay tribute to a fellow Ohioan, Charlie Vanik, who served honorably for 26 years in this House.

Charlie passed away last month at the age of 94, and I thank the gentlewoman from Cleveland for organizing this special order in his memory.

Charlie Vanik was a beautiful person. In many ways, he was the quintessential Clevelander—born of Czechoslovakian ancestry, he represented Cleveland's east side and eastern suburbs and did so with distinction and with class. He was learned and determined. As Dick Feigler, the well-known journalist in Cleveland said of Charlie, "It was all about hard work and humility." Charlie Vanik was a showman, but he wasn't a showoff. He was charming and he was humble.

He threw himself into public service with a style and gusto that his constituents enjoyed and appreciated. He took his responsibilities seriously, but he didn't take himself seriously. He rose to a position of prominence on the Ways and Means Committee. In fact, he became chairman of the trade subcommittee.

But make no mistake: Charlie Vanik never sold out. He never succumbed to the seduction of what the pundits call "Gucci Gulch." Charlie never forgot where he came from: 55th and Broadway had a different values set than Gucci Gulch. Still does.

So Charlie Vanik fought tooth and nail against tax loopholes for big business. He never forgot where he came from. Charlie Vanik may have retired from Congress, but his heart and mind kept working for America everyday.

On a regular basis, I would get phone calls from Charlie, just to say hello. He was never representing a client for monetary compensation—he always just kept working for America, and wanted to share his great ideas. He gave away his ideas—MARCY, he would say, Congress needs more strong voices to protect consumers in our nation, or on another occasion he would call to remind me to replace the sand on the public beaches of the Great Lakes that had either washed away or been used by construction companies over the years. Early on in my career, he advised me to visit many of the foreign embassies located in Washington to link to diplomats and scholars. He shared his love of life, and always called with an enthusiasm that revealed his joyful, encouraging and caring nature. His humanity was underscored by the manner in which he watched over his wife as she became ill. He never lost his way.

His name was attached to one of the landmark pieces of legislation from the Cold War era: the Jackson-Vanik Amendment. In truth, Senator Henry Jackson and Representative Charlie Vanik were actually ahead of their

time. In an era that predated Bill Clinton's decoupling of human rights and trade, Scoop Jackson and Charlie Vanik insisted that the Soviet Union respect human rights before it could receive most favored nation trading status. Because of Scoop Jackson's and Charlie Vanik's courage and commitment, hundreds of thousands of oppressed people—mainly Soviet Jews—were able to leave tyranny behind and start new lives as free people.

Madam Speaker, it is no longer fashionable to talk about the linkage between human rights and trading privileges. But, if anything, the issue is even more relevant today than when Charlie Vanik stood up for oppressed people. That's why I say Charlie Vanik was ahead of his time.

Just ask Wei Jing Sheng, who continues to fight for human rights for the millions of oppressed people in China. Ask the family and friends of Santiago Rafael Cruz, who was murdered earlier this year in Monterrey, Mexico, where he fought hard to get human rights for peasant workers.

We see the trafficking in human beings from Mexico to the United States. But the proponents of free trade fundamentalism still deny any linkage between trade and human rights. We see the gross human rights abuses in China and the growing unrest among rural people there. Yet we're told there's no connection between trade and human rights.

Despite all the abuses that perpetrated against poor people around the world in the name of globalization, the free trade crowd refuses to acknowledge any connection between trade and human rights.

We see all these things and we can't help but wish for more Charlie Vaniks—for more Members like him—genial, compassionate and humble public servants who have the eyes to see injustice and the heart to do something about it.

HONORING FORMER CONGRESSMAN CHARLES VANIK

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. HOBSON. Madam Speaker, I rise today to join my colleagues in paying tribute to former Congressman Charles Vanik, a longtime representative of northeast Ohio and a strong human rights advocate.

While I did not serve with Congressman Vanik in Congress, his work to improve the quality of life for others is well-known. Throughout his 26-year career in Congress, he worked tirelessly on behalf of his constituents and on the issues that he cared about, including: Social Security, Medicare, the environment and trade.

As many of my colleagues have mentioned, Congressman Vanik is most widely known for co-authoring an amendment to the 1974 Trade Reform Bill with the late Senator Henry ''Scoop'' Jackson that linked a country's favored trade status to its record on human rights. Specifically, their Jackson-Vanik amendment tied the former Soviet Union's trade status to its willingness in allowing freer Jewish emigration. As a result, an estimated 2 million Jewish citizens were permitted to immigrate to other countries.

Congressman Vanik also worked with Congressman Ralph Regula to create the Cuyahoga Valley National Park, and was involved with the important work of cleaning up of the Great Lakes.

Madam Speaker, Ohio, our Nation and the international community have lost a true public servant with the passing of Congressman Vanik. I join my colleagues in honoring him and in expressing our condolences to his family.

HONORING FORMER CONGRESSMAN CHARLES VANIK

HON. JIM JORDAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. JORDAN of Ohio. Madam Speaker, I am honored today to join in the tributes to the life and career of former Ohio Congressman Charles Vanik, who passed away in August at age 94.

Born in Cleveland in 1913, Charles Vanik recognized the call to service long before his 26-year House career began. After earning his law degree, he was elected to the Cleveland City Council and the Ohio State Senate—all before the age of 30. His career in elective office was interrupted by World War II, where he served in both the Atlantic and Pacific theatres as a member of the Naval Reserve. Following the war, he held a judgeship in Cleveland prior to his election to Congress in 1954.

As my colleagues have noted in prior Floor tributes to Congressman Vanik, his congressional legacy was defined by his many contributions to human rights around the world—especially through what came to be known as the Jackson-Vanik Amendment. This measure, which passed with broad bipartisan support, requires the United States to gauge the human rights records of foreign nations when assessing potential trade deals. As a result of Jackson-Vanik, the Soviet Union was compelled to allow more than two million people of faith to escape the religious persecution they faced under this cruel regime. The Amendment made Charles Vanik a target of scorn from the Soviet-controlled media—something he wore as a badge of honor.

Throughout his career, Congressman Vanik well served the people of his district and fought for freedom around the world. I offer his family and loved ones my condolences at their loss.

HONORING FORMER CONGRESSMAN CHARLES VANIK

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. BOEHNER. Madam Speaker, I rise today to honor former Congressman Charles Vanik, who passed away earlier this year. There are two things we do in Washington—politics and policy. Congressman Vanik excelled at policy and understood politics well enough to make a difference with the policies that he fought to see enacted. A champion of the underdog and an unfailing advocate for the poor, Congressman Vanik's legacy was solidified in 1974 by the Jackson-Vanik Amendment to the Trade Reform Bill linking the former Soviet Union's trade status with the ability of Russian Jews to emigrate freely.

Congressman Vanik served in the House from 1955 to 1981, representing his Cleveland-area constituents well. A 13-term veteran of the U.S. House, Congressman Vanik graciously stepped aside from his original district in 1968 to make way for Louis Stokes, who became the first African-American Congressman from Ohio. He also had his own particular style, and those privileged to have served with Congressman Vanik remember his black suits and bow ties in addition to his utter disdain to having to raise re-election funds. His constituents responded to his hard work and his commitment to them by continuing to re-elect him, proving that a hard-charging public servant who's in Congress for the right reasons will be returned to continue his work.

Congressman Vanik's public service began after graduating from Western Reserve University and Law School when he entered the Navy during World War II. Following the war, he served as a municipal judge and in the Ohio Senate before first running for Congress in 1954.

My thoughts and prayers continue to be with Congressman Vanik's family and friends, and we are grateful for his dedicated public service.

TRIBUTE TO FORMER CONGRESSMAN CHARLES VANIK

HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. RYAN of Ohio. Madam Speaker, I rise today to pay respect and tribute to former Rep. Charles Vanik of Ohio, who died Wednesday August 31 at his home in Jupiter, Florida at age 94.

Looking back at the career and mission of Representative Vanik, it is an utterly refreshing example of a legislator who didn't let politics get in the way of his goals and vision for his constituents and people all over the world. Many of my colleagues have already mentioned the historic Jackson-Vanik amendment to the Trade Reform Act of 1974. This critical human rights legislation was the mark on the map for Charles Vanik with regards to those outside the state of Ohio, but for us Ohioans, we know Congressman Vanik as a lifelong stalwart for all of those who are socially and economically oppressed.

Charles Vanik led a life of complete selflessness. After receiving his law degree he was on the City Council and in the Ohio legislature where he was valued for his consistent effort and achievements. He then joined the Navy during World War II. After his time in the service, Charles Vanik became a municipal judge until 1954 when he first ran for Congress. As a member of the Ways and Means Committee with jurisdiction over tax law, Congressman Vanik was known for his fights against big business tax breaks in the halls and corridors of Congress as he was known for his signature bow ties.

Congressman Vanik served honorably and long as a dedicated public servant. Mr. Vanik,

who had rarely spent little more than $3,000 for any of his re-election bids, became increasingly discouraged with the changing political world and the need to siphon time and resources away from addressing the concerns of his constituents. He chose not to run for re-election in 1980.

Charles Vanik's life and his commitment to principle are truly remarkable. I believe one of the most important things we should learn from the actions and words of Charles Vanik is to constantly hold ourselves to the highest possible standards, no matter what the political environment or what criticism you might face. The United States Congress and the state of Ohio will miss one of its greatest public officials, Congressman Charles Vanik.

REMEMBERING FORMER REPRESENTATIVE CHARLES VANIK OF OHIO

HON. CHARLES A. WILSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. WILSON of Ohio. Madam Speaker, it is important to commend the service of one of Ohio's distinguished public servants. Charles Vanik served for 26 years in the U.S. House of Representatives, and we are better for his service. He died at the age of 94 in September.

Representative Vanik is best remembered for his work that allowed more Russian Jews to immigrate to this country. During his tenure in the House, Representative Vanik of Cleveland also fought tirelessly for Social Security and Medicare.

Nearly all of Representative Vanik's life was devoted to public service. In the Navy, as a Cleveland Municipal Judge, in the Ohio Senate and through 26 years here in the House he worked tirelessly for the public. The great State of Ohio and this country mourn his passing.

Our thoughts and prayers go out to his wife, Betty, their children and grandchildren.

IN REMEMBRANCE OF CHARLES VANIK

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. KUCINICH. Madam Speaker, I rise today to honor the memory of one of our former colleagues, Congressman Charlie Vanik. For 26 years, he was an admirable spokesman not only for the people of his district, but for the nation.

During his time in office, Congressman Vanik was one of Congress's most vocal advocates for human rights. In 1974, he co-authored an amendment to a trade law that required the United States to assess the human rights records of foreign countries before granting them special privileges. This law put pressure on the Soviet Union to allow freer emigration, and as a result, more than 2 million people were able to leave the Soviet Union in search of a better life.

While he was a member of Congress, he never forgot where he came from or the people he represented. During his time in office he helped to pass several federal programs, including the federal school lunch program, that would help the people in his district and throughout the country improve their livelihoods. In addition, he is remembered by his former colleagues as a savvy, gifted speaker who had the ability to make every person in a room smile.

Madam Speaker and colleagues, please join me in remembering the life of Congressman Charlie Vanik. May he rest in peace, and may his service to his country and to this body always be remembered honorably. He is survived by his wife, Betty; his son, Jon; his daughter, Phyllis; and two grandchildren.

PASSING OF REPRESENTATIVE CHARLES VANIK

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Ms. JONES of Ohio. Madam Speaker, I rise today to pay tribute to a remarkable man, a 26-year veteran of this distinguished body and an outstanding American.

The Honorable Charles Albert Vanik worked tirelessly to promote the civil rights of all people. His dedication to this cause extended further than the boundaries of our country and touched countless lives. The Congressman felt it necessary that every individual throughout the globe should fully enjoy the natural rights of mankind.

This commitment was most evident in his decision in 1968 to shift to the 22nd Congressional District following redistricting to allow a then up and coming African American politician by the name of Louis Stokes to run for and ultimately win the 21st Congressional District seat.

Charles Vanik was a native of Cleveland, Ohio. He represented my city and my extended community in a distinguished fashion. Serving as a councilman, a judge and a member of the state legislature before joining the United States Congress, he developed a reputation as a caring individual.

Congressman Vanik was wholeheartedly a representative of the people. As a member of the House Ways and Means Committee, he felt that both individuals and enterprises alike should equally contribute to society. The respect that his friends and fellow Members of Congress held for him, presented several opportunities for his policy objectives to be adopted in statutes relating to both taxes and trade.

Most importantly, this son of immigrants personified all that is great about our Nation and our people. He cared for his neighbors, he was passionate about freedom and he wanted to help those in need.

I had many opportunities to personally speak with Representative Vanik. The most memorable of these meetings was when the National Institutes of Health dedicated their new laboratory facility in honor of my predecessor Congressman Louis Stokes.

It is with great respect and admiration that I ask this esteemed body to keep his wife, Betty, and children, John and Phyllis, in our hearts and prayers. May we all rejoice in having known such a great man and cherish both our memories and his legacy.

ON THE PASSING OF FORMER CONGRESSMAN CHARLES VANIK

HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. SPACE. Madam Speaker, the news of the passing of Charles Vanik was truly a sad event for Ohio. We lost a genuine statesman who always worked for the betterment of his country, state, and community.

While I was not privileged to have met him personally, his reputation, legislative accomplishments, and dedication to making life better for those less fortunate were well known throughout the state.

Congressman Vanik was best known for the Jackson-Vanik amendment to the Trade Reform Bill in 1974, which forced the Soviet Union to open up its borders. Arguably one of the most successful pieces of legislation in forcing foreign policy changes, this provision was highly successful in opening up the USSR. This was just one of the many principled stands he took to stand up for his beliefs in defense of those who needed the most help.

My heart and prayers go out to his family. Ohio and the rest of the country join in mourning this great loss.

HONORING FORMER CONGRESSMAN CHARLIE VANIK

HON. STEVE CHABOT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Mr. CHABOT. Madam Speaker, I rise today to recognize the passing of a former member of this body from my home state of Ohio—Mr. Charles Vanik—who represented Ohio's 21st Congressional district, the east side of Cleveland, which later became the 22nd District.

After serving on the Cleveland City Council and in the Ohio State Senate, Charlie Vanik enlisted in the Naval Reserves during World War II and fought in both the Atlantic and the Pacific. He later went on to serve as a local judge before being elected to the United States House of Representatives in 1954.

Known for his black suits and bow ties, Charlie was a champion of working class families and was most famous for his strong stance against nations that denied freedom to its citizens—particularly the Soviet Union.

In 1974 he partnered with then-Senator Henry ''Scoop'' Jackson to craft what became known as the Jackson-Vanik Amendment, which denied normal trade relations to certain countries that oppressed its people and restricted the freedom of emigration. That amendment was offered to a trade reform bill and was intended to allow Jewish refugees to escape from the Soviet Union. The Jackson-Vanik Amendment is still on the books today.

Charlie Vanik is survived by his wife, two children and two grandchildren. I ask my colleagues to keep his family and friends in their thoughts and prayers in the coming months.

IN HONOR OF THE 40TH ANNIVERSARY OF THE SACRAMENTO INTERNATIONAL AIRPORT

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 2007

Ms. MATSUI. Madam Speaker, I rise in honor of the Sacramento International Airport and their 40 year anniversary. In 1967, the first flight was flown out of the Sacramento Metropolitan Airport and since that time the Airport has become a gateway to Northern California destinations and major cities across the United States. I ask all of my colleagues to join with me in saluting the 40 years of service provided by the Sacramento International Airport.

Located just northwest of downtown Sacramento, the Sacramento International Airport is situated on 6,000 acres of former farmland. The Airport was constructed when the region's aviation needs outgrew the Sacramento Executive Airport. The $17.8 million dollar project was completed in 1967 and in the following year the nearly a million people flew on the airport's five initial carriers; Delta, Pacific, United, West Coast and Western. Since that time airlines have come and gone at the airport, but the high level of customer satisfaction remains.

Over the last 40 years the Sacramento International Airport has made great strides to improve its facilities. Nine years ago, the Sacramento Metropolitan Airport was officially renamed the Sacramento International Airport when it started hosting nonstop flights to Mexico and Canada. These international flights were made possible by the completion of an International Terminal and Terminal A, which represented a stark contrast to the older and outdated Terminal B.

In 2006, Airport officials announced they would be replacing the aging Terminal B with a brand new terminal. Under the leadership of Sacramento County Airport System Director Hardy Acree and the Sacramento County Board of Supervisors, this modernization of the Airport will be complete in 2012. The state-of-the-art facility will be equipped with 23 new gates, a two-level access roadway designed to reduce traffic congestion and additional taxiways that will allow aircrafts to reach terminals more promptly. All of these features will improve the overall efficiency and enjoyment of the traveling experience.

Forty years after being built, the Airport welcomes more than 10 million passengers each year and has two fully operational runways. It is estimated that by 2020, the Airport will serve over 17.7 million passengers as a growing regional hub and international transit point. With flights to New York City, Washington D.C., Atlanta, Chicago, Guadalajara, Mexico City, Vancouver, Ontario, Honolulu, all of California's major cities and many more, the airport is an attractive option for all Northern California travelers. Thanks to the construction of a new six-story parking garage three years ago, the Airport now accommodates over 16,000 cars, making the traveling experience more enjoyable.

Madam Speaker, I am honored to recognize the 40 years of growth and prosperity at the Sacramento International Airport. In the coming years the Sacramento International Airport will continue to expand as an international airport and gateway for our region. As the Airport's supporters gather to celebrate their 40 anniversary, I ask all my colleagues to join me in honoring their storied past and vision for the future.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 25, 2007 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 29

4 p.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine the Organization for Security and Co-operation in Europe (OSCE) and simmering tensions with Russia before parliamentary and presidential elections.

1539-LHOB

OCTOBER 30

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine ways to protect the United States from drug-resistant tuberculosis, focusing on reinvesting in control and new tools research.

SD–430

Homeland Security and Governmental Affairs

To hold hearings to examine the role of local law enforcement in countering violent Islamist extremism.

SD–342

2:30 p.m.

Foreign Relations

To hold hearings to examine the nominations of Sean R. Mulvaney, of Illinois, to be an Assistant Administrator of the United States Agency for International Development, and Daniel D. Heath, of New Hampshire, to be United States Alternate Executive Director of the International Monetary Fund.

SD–419

Intelligence

To hold closed hearings to examine certain intelligence matters.

SH–219

OCTOBER 31

9:30 a.m.

Veterans' Affairs

To hold an oversight hearing to examine the Uniformed Services Employment and Reemployment Rights Act (USERRA).

SD–562

10 a.m.

Commerce, Science, and Transportation

To hold hearings to examine universal telephone service.

SR–253

Environment and Public Works

To hold hearings to examine the licensing process for the Yucca Mountain Repository.

SD–406

Judiciary

To hold hearings to examine Foreign Intelligence Surveillance Act (FISA) amendments, focusing on ways to protect Americans' security and privacy while preserving the rule of law and government accountability.

SD–226

2:30 p.m.

Homeland Security and Governmental Affairs

Disaster Recovery Subcommittee

To hold hearings to examine post-catastrophe crisis, focusing on addressing the dramatic need and scant availability of mental health care in the Gulf Coast.

SD–342

Banking, Housing, and Urban Affairs

Securities, Insurance and Investment Subcommittee

To hold hearings to examine climate disclosure, focusing on measuring financial risks and opportunities.

SD–538

NOVEMBER 1

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine the nominations of Gregory F. Jacob, of New Jersey, to be Solicitor, and Howard Radzely, of Maryland, to be Deputy Secretary, both of the Department of Labor.

SD–430

Intelligence

Meeting of conferees on proposed legislation authorizing funds for fiscal year 2008 for the intelligence community.

S–407, Capitol

2:30 p.m.

Intelligence

To hold closed hearings to examine certain intelligence matters.

SH–219

NOVEMBER 7

9:30 a.m.

Veterans' Affairs

To hold an oversight hearing to examine the performance and structure of the United States Court of Appeals for Veterans.

SD–562

10 a.m.

Rules and Administration

To hold hearings to examine the Government Accountability Office report focusing on funding challenges and facilities maintenance at the Smithsonian Institution.

SR–301

1:30 p.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine sovereign wealth fund acquisitions and other foreign government investments in the United States, focusing on economic and national security implications.

SD–538

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S13273–S13390

Measures Introduced: Seven bills and one resolution were introduced, as follows: S. 2222–2228, and S. Res. 355. **Page S13365**

Measures Reported:

S. 1492, to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation, with an amendment in the nature of a substitute. (S. Rept. No. 110–204)

S. 2223, to amend the Internal Revenue Code of 1986 to provide additional tax incentives to promote habitat conservation and restoration. (S. Rept. No. 110–205) **Page S13362**

Measures Passed:

District of Columbia Disabled Veterans Memorial: Senate passed H.R. 995, to amend Public Law 106–348 to extend the authorization for establishing a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the Armed Forces of the United States, clearing the measure for the President. **Page S13389**

Measures Considered:

DREAM Act: Senate resumed consideration of the motion to proceed to the consideration of S. 2205, to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children. **Pages S13300–06**

During consideration of this measure today, Senate also took the following action:

By 52 yeas to 44 nays (Vote No. 394), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the motion to proceed to consideration of the bill. **Page S13306**

Passenger Rail Investment and Improvement Act: Senate began consideration of S. 294, to reauthorize Amtrak, agreeing to the committee amendments, which will be considered as original text for purpose of further amendment, and taking action on the following amendments proposed thereto: **Pages S13323–54**

Adopted:

Lautenberg Amendment No. 3451, of a perfecting nature. (By unanimous consent, the amendment will be considered as original text for the purpose of further amendment.) **Pages S13346–48**

Pending:

Sununu Amendment No. 3452, to amend the Internet Tax Freedom Act to make permanent the moratorium on certain taxes relating to the Internet and to electronic commerce. **Pages S13349–51**

Sununu Amendment No. 3453, to prohibit Federal subsidies in excess of specified amounts on any Amtrak train route. **Pages S13351–53**

Lautenberg (for Carper) Amendment No. 3454 (to Amendment No. 3452), of a perfecting nature. **Pages S13353–54**

A motion was entered to close further debate on Sununu Amendment No. 3452 (listed above), and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Friday, October 26, 2007. **Page S13350**

A unanimous-consent agreement was reached providing that the bill, as amended, be considered as original text for the purpose of further amendments. **Page S13348**

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 10:30 a.m., on Thursday, October 25, 2007, provided that there be 2 hours of debate prior to a vote on or in relation to Sununu Amendment No. 3453 (listed above), with the time equally divided and controlled between Senators Lautenberg and Sununu, or their designees; that no amendments be in order to the amendment prior to the vote; provided further, that upon the use or yielding back of time, Senate vote on or in relation to Sununu Amendment No. 3453. **Pages S13353, S13390**

Message from the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, a report on the continuation of the national emergency declared in

Executive Order 13413 with respect to blocking the property of persons contributing to the conflict taking place in the Democratic Republic of the Congo; which was referred to the Committee on Banking, Housing, and Urban Affairs. (PM–30) **Page S13360**

Southwick Nomination: Senate continued consideration of the nomination of Leslie Southwick, of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

During consideration of this nomination today, Senate also took the following action:

By 62 yeas to 35 nays (Vote No. 392), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the nomination.

Pages S13273–S13300

Nomination Confirmed: Senate confirmed the following nomination:

By 59 yeas 38 nays (Vote No. EX. 393), Leslie Southwick, of Mississippi, to be United States Circuit Judge for the Fifth Circuit. **Pages S13300, S13390**

Messages from the House: **Pages S13360–61**

Measures Referred: **Page S13361**

Measures Placed on the Calendar: **Page S13361**

Measures Read the First Time: **Page S13361**

Executive Communications: **Pages S13361–62**

Executive Reports of Committees: **Pages S13362–65**

Additional Cosponsors: **Pages S13365–66**

Statements on Introduced Bills/Resolutions: **Pages S13366–67**

Additional Statements: **Pages S13358–60**

Amendments Submitted: **Pages S13367–69**

Authorities for Committees to Meet: **Pages S13369–70**

Text of H.R. 3043, as Previously Passed: **Pages S13370–89**

Record Votes: Three record votes were taken today. (Total—394) **Pages S13300, S13306**

Adjournment: Senate convened at 9 a.m. and adjourned at 7:45 p.m., until 9:30 a.m. on Thursday, October 25, 2007. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S13390.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Agriculture, Nutrition, and Forestry: Committee began markup of the 2007 Farm Bill, but did not complete action thereon, and will meet again on Thursday, October 25, 2007.

INTERNATIONAL ACCOUNTING STANDARDS

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Securities, Insurance and Investment concluded a hearing to examine international accounting standards, focusing on opportunities, challenges, and global convergence issues, after receiving testimony from Conrad W. Hewitt, Chief Accountant, and John W. White, Director, Division of Corporation Finance, both of the U.S. Securities and Exchange Commission; David Tweedie, International Accounting Standards Board, London, United Kingdom; Robert H. Herz, Financial Accounting Standards Board, Norwalk, Connecticut; Charles E. Landes, American Institute of Certified Public Accountants, and Lynn E. Turner, Glass Lewis and Company, both of New York, New York; Jack T. Ciesielski, R.G. Associates, Inc., Folsom, California; and Teri Lombardi Yohn, Indiana University Kelley School of Business, Bloomington.

FUTURE OF RADIO

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine the important communication and broadcasting policy issues surrounding the future of the radio industry, including S. 1675, to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, after receiving testimony from Mac McCaughan, Merge Records, Chapel Hill, North Carolina; W. Russell Withers, Jr., Withers Broadcasting Companies, Mt. Vernon, Illinois, on behalf of the National Association of Broadcasters; S. Derek Turner, Free Press, on behalf of the Consumers Union, and the Consumer Federation of America, and Dana Davis Rehm, National Public Radio (NPR), both of Washington, DC; and Carol Pierson, National Federation of Community Broadcasters (NFCB), and Tim Westergren, Pandora Media, on behalf of the Digital Media Association, both of Oakland, California.

AMERICA'S CLIMATE SECURITY ACT

Committee on Environment and Public Works: Subcommittee on Private Sector and Consumer Solutions to Global Warming and Wildlife Protection concluded a hearing to examine S. 2191, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, after receiving testimony from Kevin Anton, Alcoa, Inc., Knoxville, Tennessee; Frances Beinecke, Natural Resources Defense Council (NRDC), New York, New York; William R. Moomaw, Tufts University Fletcher School Center

for International Environment and Resource Policy, Medford, Massachusetts; Will Roehm, Montana Grain Growers Association, Great Falls; and Paul N. Cicio, Industrial Energy Consumers of America, Washington, DC

AFRICAN GREAT LAKES REGION

Committee on Foreign Relations: Subcommittee on African Affairs concluded a hearing to examine the United States role in consolidating peace and democracy in the African Great Lakes region, after receiving testimony from Jendayi E. Frazer, Assistant Secretary of State for African Affairs; Katherine J. Almquist, Assistant Administrator for Africa, United States Agency for International Development; and Gayle E. Smith, Center for American Progress, Kevin Fitzcharles, CARE Uganda, and Mauro De Lorenzo, American Enterprise Institute, all of Washington, DC.

BUSINESS MEETING

Committee on Foreign Relations: Committee ordered favorably reported the nominations of Henrietta Holsman Fore, of Nevada, to be Administrator of the United States Agency for International Development, Robin Renee Sanders, of New York, to be Ambassador to the Federal Republic of Nigeria, Barry Leon Wells, of Ohio, to be Ambassador to the Republic of The Gambia, Mark M. Boulware, of Texas, to be Ambassador to the Islamic Republic of Mauritania, James D. McGee, of Florida, to be Ambassador to the Republic of Zimbabwe, Ronald K. McMullen, of Iowa, to be Ambassador to the State of Eritrea, P. Robert Fannin, of Arizona, to be Ambassador to the Dominican Republic, Christopher Egan, of Massachusetts, to be Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador, Louis John Nigro, Jr., of Florida, to be Ambassador to the Republic of Chad, David T. Johnson, of Georgia, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs), Paul E. Simons, of Virginia, to be Ambassador to the Republic of Chile, Gail Dennise Mathieu, of New Jersey, to be Ambassador to the Republic of Namibia, Dan Mozena, of Iowa, to be Ambassador to the Republic of Angola, Eunice S. Reddick, of New York, to be Ambassador to the Gabonese Republic, and to serve concurrently and without additional compensation as Ambassador to the Democratic Republic of Sao Tome and Principe, Daniel V. Speckhard, of Wisconsin, to be Ambassador to Greece, Thomas F. Stephenson, of California, to be Ambassador to the Portuguese Republic, Vincent Obsitnik, of Virginia, to be Ambassador to the Slovak Republic, William H. Frist, of Tennessee, and Kenneth Francis Hackett, of Maryland, both to be a Member of the Board of Directors of the Millennium Challenge Corporation, George E. Pataki, of New York, to be a Representative of the United States of America to the Sixty-second Session of the General Assembly of the United Nations, and Kelly G. Knight, of Kentucky, and Rodger D. Young, of Michigan, both to be an Alternate Representative of the United States of America to the Sixty-second Session of the General Assembly of the United Nations.

HIV/AIDS GLOBAL FIGHT

Committee on Foreign Relations: Committee concluded a hearing to examine issues relative to the global fight against HIV/AIDS, after receiving testimony from Mark R. Dybul, U.S. Global AIDS Coordinator, Department of State.

TERRORIST SCREENING SYSTEM

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine ways to build an effective terrorist screening system and watch list, including standards for including individuals on the list, the outcomes of encounters with individuals on the list, potential vulnerabilities in screening processes and efforts to address them, and actions taken to promote effective terrorism-related screening, after receiving testimony from Eileen R. Larence, Director, Homeland Security and Justice Issues, Government Accountability Office; Glenn A. Fine, Inspector General, and Leonard Boyle, Director, Terrorist Screening Center, both of the Department of Justice; and Paul Rosenzweig, Deputy Assistant Secretary of Homeland Security for Policy.

NOMINATIONS

Committee on the Judiciary: Committee concluded a hearing to examine the nominations of Ronald Jay Tenpas, of Maryland, to be an Assistant Attorney General, who was introduced by Senator Specter, Joseph N. Laplante, to be United States District Judge for the District of New Hampshire, who was introduced by Senators Gregg and Sununu, Reed Charles O'Connor, to be United States District Judge for the Northern District of Texas, who was introduced by Senators Hutchison and Cornyn, Thomas D. Schroeder, to be United States District Judge for the Middle District of North Carolina, who was introduced by Senators Dole and Burr, and Amul R. Thapar, to be United States District Judge for the Eastern District of Kentucky, who was introduced by Senators McConnell and Bunning, after the nominees testified and answered questions in their own behalf.

FEDERALLY-FUNDED UNIVERSITY RESEARCH

Committee on the Judiciary: Committee concluded a hearing to examine the role of federally-funded university research in the patent system, including the University and Small Business Patent Procedures Act (Public Law 96–517), after receiving testimony from Arti K. Rai, Duke University School of Law, Durham, North Carolina; Elizabeth Hoffman, Iowa State University Department of Economics, Ames; Robert Weissman, Essential Action, Washington, DC; and Charles F. Louis, University of California, Riverside.

VETERANS LEGISLATION

Committee on Veterans' Affairs: Committee concluded a hearing to examine S. 2162, to improve the treatment and services provided by the Department of Veterans Affairs to veterans with post-traumatic stress disorder and substance use disorders, S. 2160, to amend title 38, United States Code, to establish a pain care initiative in health care facilities of the Department of Veterans Affairs, S. 38, to require the Secretary of Veterans Affairs to establish a program for the provision of readjustment and mental health services to veterans who served in Operation Iraqi Freedom and Operation Enduring Freedom, S. 2004, to amend title 38, United States Code, to establish epilepsy centers of excellence in the Veterans Health Administration of the Department of Veterans Affairs, and S. 2142, to amend title 38, United States Code, to require the Secretary of Veterans Affairs to reimburse veterans receiving emergency treatment in non-Department of Veterans Affairs facilities for such treatment until such veterans are transferred to Department facilities, after receiving testimony from Michael J. Kussman, Under Secretary for Health, and Walter Hall, Assistant General Counsel, both of the Department of Veterans Affairs; Carl Blake, Paralyzed Veterans of America, and Joy J. Ilem, Disabled American Veterans, both of Washington, DC; Brenda Murdough, American Pain Foundation, Baltimore, Maryland; Brien J. Smith, Henry Ford Hospital, Detroit, Michigan; and Captain Constance A. Walker, USN (Ret.), Southern Maryland Chapter of National Alliance on Mental Illness, Leonardtown.

RETIREMENT SECURITY

Special Committee on Aging: Committee concluded a hearing to examine hidden 401(k) fees, focusing on ways that disclosure can increase retirement security, after receiving testimony from Barbara D. Bovbjerg, Director, Education, Workforce, and Income Security Issues, Government Accountability Office; Bradford P. Campbell, Assistant Secretary of Labor for the Employee Benefits Administration; Jeff Love, American Association of Retired Persons (AARP), Washington, DC; Mercer E. Bullard, Fund Democracy, Inc., Oxford, Mississippi; Michael Kiley, Plan Administrators, Inc., De Pere, Wisconsin, on behalf of the American Society of Pension Professionals and Actuaries (ASPPA), and the Council of Independent 401(k) Recordkeepers (CIKR); and Robert G. Chambers, Helms Mulliss and Wicker, Charlotte, North Carolina, on behalf of sundry organizations.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 13 public bills, H.R. 3951–3963; and 3 resolutions, H.J. Res. 60; H. Con. Res. 240; and H. Res. 772, were introduced. **Pages H12020–21**

Additional Cosponsors: **Pages H12021–22**

Reports Filed: Reports were filed today as follows:

H. Res. 773, providing for consideration of the bill (H.R. 3867) to update and expand the procurement programs of the Small Business Administration (H. Rept. 110–407); and

H. Res. 774, providing for consideration of the bill (H.R. 3963) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program (H. Rept. 110–408). **Page H12020**

Chaplain: The prayer was offered by the guest Chaplain, Rev. Allen Novotny, Gonzaga College High School, Washington, DC. **Page H11937**

Amending the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas: The House passed H.R. 1483, to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, by a recorded vote of 291 ayes to 122 noes, Roll No. 996. **Pages H11940–65**

Agreed to the Bishop (UT) motion to recommit the bill to the Committee on Natural Resources

with instructions to report the same to the House forthwith with an amendment, by a yea-and-nay vote of 344 yeas to 71 nays, Roll No. 995. Subsequently, Representative Rahall reported the bill back to the House with the amendment and the amendment was agreed to. **Pages H11963–64**

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, modified by the amendment printed in H. Rept. 110–405, shall be considered as adopted. **Page H11940**

Agreed that the Clerk be authorized to make technical and conforming changes to reflect the actions of the House. **Pages H11973–74**

H. Res. 765, the rule providing for consideration of the bill, was agreed to on Tuesday, October 23.

Native Hawaiian Government Reorganization Act of 2007: The House passed H.R. 505, to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, by a yea-and-nay vote of 261 yeas to 153 nays, Roll No. 1000. **Pages H11974–89**

Rejected the Flake motion to recommit the bill to the Committee on Natural Resources with instructions to report the same back to the House forthwith with an amendment, by a yea-and-nay vote of 178 yeas to 235 nays, Roll No. 999. **Pages H11986–88**

H. Res. 764, the rule providing for consideration of the bill, was agreed to by a recorded vote of 217 ayes to 179 noes, Roll No. 998, after agreeing to order the previous question by a yea-and-nay vote of 218 yeas to 175 nays, Roll No. 997. **Pages H11965–73**

Presidential Message: Read a message from the President wherein he notified Congress of the continuation of the national emergency declared in Executive Order 13413 of October 27, 2006 with respect to the Democratic Republic of the Congo—referred to the Committee on Foreign Affairs and ordered printed (H. Doc. 110–69). **Pages H12008–09**

Quorum Calls—Votes: Four yea-and-nay votes and two recorded votes developed during the proceedings of today and appear on pages H11964, H11965, H11972–73, H11973, H11987–88, and H11989. There were no quorum calls.

Recess: The House recessed at 6:58 p.m. and reconvened at 11:52 p.m. **Page H12019**

Adjournment: The House met at 10 a.m. and adjourned at 11:54 p.m.

Committee Meetings

CFTC REAUTHORIZATION

Committee on Agriculture: Subcommittee on General Farm Commodities and Risk Management held a hearing to review reauthorization of the Commodity Futures Trading Commission. Testimony was heard from Walter Lukken, Acting Chairman, CFTC; and Orice M. Williams, Director, Financial Markets and Community Investment, GAO.

AIR FORCE STRATEGIC INITIATIVE

Committee on Armed Services: Held a hearing on Air Force Strategic initiatives. Testimony was heard from the following officials of the Department of the Air Force: Michael Wynne, Secretary; and GEN T. Michael Moseley, USAF, Chief of Staff.

BUDGETARY COSTS IRAQ WAR

Committee on the Budget: Held a hearing on the Growing Budgetary Costs of the Iraq War. Testimony was heard from Peter Orszag, Director, CBO; Amy Belasco, CRS, Library of Congress; and a public witness.

ELECTRONIC CONTROLLED SUBSTANCE MONITORING

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations held a hearing entitled "NASPER: Why Has the National All Schedules Prescription Electronic Reporting Act Not Been Implemented?" Testimony was heard from the following officials of the Department of Health and Human Services: H. Wesley Clark, M.D., Director, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration; Len Paulozzi, M.D., Medical Epidemiologist, Division of Unintentional Injury Prevention, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention; and a public witness.

REFORMING MORTGAGE PRACTICES

Committee on Financial Services: Held a hearing entitled "Legislative Proposals on Reforming Mortgage Practices." Testimony was heard from Martin J. Gruenberg, Vice Chair, FDIC; John C. Dugan, Comptroller of the Currency; and John M. Reich, Director of Thrift Supervision, both with the Department of the Treasury; Jo Ann Johnson, Chairman, National Credit Union Administration; Randall S. Kroszner, member, Board of Governors, Federal Reserve System; Steven L. Antonakes, Commissioner, Division of Banks, Massachusetts; and public witnesses.

U.S. POLICY IN THE MIDDLE EAST

Committee on Foreign Affairs: Held a hearing on U.S. Policy in the Middle East. Testimony was heard from Condoleezza Rice, Secretary of State.

SECURE BORDER INITIATIVE NETWORK

Committee on Homeland Security: Subcommittee on Border Maritime, and Global Counterterrorism and the Subcommittee on Management, Investigations and Oversight held a joint hearing entitled ''The Future of Border Security: Can SBInet Succeed?'' Testimony was heard from the following officials of the Department of Homeland Security: Gregory Giddens, Executive Director, Secure Border Initiative; and Chief Robert W. Gilbert, Chief Patrol Agent, Tucson Sector, U.S. Border Patrol; and Richard M. Stana, Director, Homeland Security and Justice, GAO; and public witnesses.

OVERSIGHT—LIBRARY OF CONGRESS LIBRARY MANAGEMENT

Committee on House Administration: Held an oversight hearing on the Library of Congress: Current Issues in Library Management. Testimony was heard from the following officials of the Library of Congress: James H. Billington, Librarian of Congress; Karl W. Schornagel, Inspector General; former Representative Bill Orton of Utah; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported the following measures: H.R. 3921, Procedural Fairness for September 11th Victims Act of 2007; H.R. 2405, Proud to Be an American Citizen Act; H.R. 2884, amended, Kendell Frederick Citizenship Assistance Act; H.R. 1512, amended, To amend the Immigration and Nationality Act to provide for compensation to State incarcerating undocumented aliens charged with a felony or two or more misdemeanors; H.R. 2830, amended, Coast Guard Authorization Act of 2007; and H.R. 2128, amended, Sunshine in the Courtroom Act of 2007.

The Committee also approved a resolution that submissions to the Committee on its website tip line for Justice Department employees be received in executive session.

The Committee began mark up of H.R.1312, Arts Require Timely Service (ARTS) Act.

MISCELLANEOUS MEASURES

Committee on Natural Resources: Subcommittee on Fisheries, Wildlife and Oceans held a hearing on the following bills: H.R. 1187, Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act; H.R. 1907, Coastal and Estuarine Land Protection Act; and H.R. 3352, Hydrographic Services Improvement Act Amendments of 2007. Testimony was hearing from Representatives Woolsey and Thompson of California; Jack Dunnigan, Assistant Administrator, Ocean Services and Coastal Zone Management, NOAA, Department of Commerce; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Natural Resources: Subcommittee on Water and Power held a hearing on the following bills: H.R. 496, Tumalo Water Conservation Project Act of 2007; H.R. 3323, Goleta Water Distribution System Conveyance Act of 2007; H.R. 3437, Jackson Gulch Rehabilitation Act of 2007; and H.R. 3739, To amend the Arizona Water Settlements Act to modify the requirements for the statement of findings. Testimony was heard from Robert Johnson, Commissioner, Bureau of Reclamation, Department of the Interior; and public witnesses.

BANK'S COMMUNITY REINVESTMENT RATINGS

Committee on Oversight and Government Reform: Subcommittee on Domestic Policy held a hearing on Upholding the Spirit of CRA: Do CRA Rating Accurately Reflect Bank Practices? Testimony was heard from Sandra Thompson, Director, Division of Supervision and Consumer Protection, FDIC; Sandra F. Braunstein, Director, Division of Consumer and Community Affairs, Board of Governors, Federal Reserve System; and the following officials of the Department of the Treasury: Montrice Yakimov, Managing Director, Compliance and Consumer Protection, Office of Thrift Supervision; and Ann Jaedicke, Deputy Comptroller for Compliance Policy, Comptroller of the Currency; and public witnesses.

SMALL BUSINESS CONTRACTING PROGRAM IMPROVEMENTS ACT

Committee on Rules: Granted, by a voice vote, a structured rule. The rule provides one hour of general debate on H.R. 3867, Small Business Contracting Program Improvements Act, equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business. The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The rule provides that the bill shall be considered as read. The rule waives all points of order against provisions of the bill.

The rule makes in order only those amendments printed in the Rules Committee report. Amendments so printed may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in

the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against such amendments except those arising under clause 9 or 10 of rule XXI. The rule provides one motion to recommit the bill with or without instructions. Finally, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker. Testimony was heard by Chairwoman Velázquez and Representatives Moran of Virginia, Chabot, Mica, Ginny Brown-Waite of Florida.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

Committee on Rules: Granted, by a vote of 8 to 4, a closed rule. The rule provides one hour of debate on H.R. 3963, Children's Health Insurance Program Reauthorization Act of 2007, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and the chairman and ranking minority member of the Committee on Ways and Means.

The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The rule provides that the bill shall be considered as read. The rule waives all points of order against provisions of the bill. The rule provides one motion to recommit the bill with or without instructions. Finally, the rule permits the Chair, during consideration of the bill, to postpone further consideration of it to a time designated by the Speaker. Testimony was heard by Chairman Dingell and Representative Burgess.

MISCELLANEOUS MEASURES

Committee on Science and Technology: Ordered reported, as amended, the following bills: H.R. 1834, National Ocean Exploration Program Act; H.R. 2406, To authorize the National Institute of Standards and Technology to increase its efforts in support of the integration of the healthcare information enterprise in the United States; and H.R. 3877, Mine Communications Technology Innovation Act.

RETIREMENT PLAN INEQUITIES

Committee in Small Business: Subcommittee on Finance and Tax held a hearing on Pension Parity: Addressing the Inequities between Retirement Plan Options for Small and Large Businesses. Testimony was heard from public witnesses.

AVIATION AND THE ENVIRONMENT: NOISE

Committee on Transportation and Infrastructure: Subcommittee on Aviation held a hearing on Aviation and the Environment: Noise. Testimony was heard from Representative Crowley and McCarthy of New York; Carl Burleson, Director, Office of Environment and Energy, FAA, Department of Transportation; Gerald Dillingham, Director, Physical Infrastructure Issues, GAO; Ralph Tragale, Manager, Government and Community Relations, Port Authority of New York and New Jersey; and public witnesses.

VA—DEFENSE MEDICAL RECORD SHARING

Committee on Veterans' Affairs: Subcommittee on Oversight and Investigations held a hearing on Sharing Electronic Medical Records between Department of Defense and Department of Veterans Affairs. Testimony was heard from Valerie Melvin, Director, Human Capital and Management Information Systems Issues, GAO; the following officials of the Department of Defense: BG Douglas J. Robb, M.D., USAF, Commander, 81st Medical Wing, Keesler Air Force Base; COL Keith Salzman, M.D., USA, Chief, Information Division, Western Regional Medical Command/Madigan Army Medical Center; LCDR James L. Martin, USN, 001—Regional Info System Officer, Military Sealift Command, U.S. Navy; COL Gregory Andre Marinkovich, USA, Data Management Product Line Functional Manager, Clinical Information Technology Program; Stephan Jones, Principal Deputy Assistant Secretary, Health Affairs; and the following officials of the Department of Veterans Affairs: Howard B. Green, Deputy Director, Health Project Management Office, Office of Information and Technology; and Gerald M. Criss, M.D., Principal Deputy Under Secretary, Health.

TRADE AND GLOBALIZATION ASSISTANCE ACT

Committee on Ways and Means: Ordered reported, as amended, H.R. 3920, Trade and Globalization Assistance Act of 2007.

FUTURE OF BIOFUELS

Select Committee on Energy Independence and Global Warming; Held a hearing on The Gas is Greener on the Other Side: the Future of Biofuels. Testimony was heard from public witnesses.

COMMITTEE MEETINGS FOR THURSDAY, OCTOBER 25, 2007

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Agriculture, Nutrition, and Forestry: business meeting to continue markup of the 2007 Farm Bill, Time to be announced, SR–328A.

Committee on Commerce, Science, and Transportation: Subcommittee on Interstate Commerce, Trade, and Tourism, to hold hearings to examine sweatshop conditions in the toy industry in China, 9:30 a.m., SR–253.

Committee on Environment and Public Works: Subcommittee on Transportation Safety, Infrastructure Security, and Water Quality, to hold an oversight hearing to examine the effectiveness of federal drunk driving programs, 10 a.m., SD–406.

Committee on Finance: to hold hearings to examine small business health insurance, focusing on building a gateway to coverage, 10 a.m., SD–215.

Committee on Homeland Security and Governmental Affairs: Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, to hold hearings to examine single audits, focusing on a recent study on the potential impacts that implementing certain recommendations could have to help ensure that federal funds are safeguarded, 2:30 p.m., SD–342.

Committee on the Judiciary: business meeting to consider S. 1946, to help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law, S. Res. 347, designating May 2008 as ''National Be Bear Aware and Wildlife Stewardship Month'', S. Res. 346, expressing heartfelt sympathy for the victims of the devastating thunderstorms that caused severe flooding during August 2007 in the States of Illinois, Iowa, Minnesota, Ohio, and Wisconsin, and the nominations of John Daniel Tinder, of Indiana, to be United States Circuit Judge for the Seventh Circuit, and Julie L. Myers, of Kansas, to be Assistant Secretary of Homeland Security, 10 a.m., SD–226.

Select Committee on Intelligence: to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Agriculture, hearing to review agriculture disaster conditions across the nation, 10 a.m., 1300 Longworth.

Committee on the Budget, hearing on Surface Transportation: Investment Needs and the Budget, 10 a.m., 210 Cannon.

Committee on Education and Labor, Subcommittee on Workforce Protections, hearing on H.R. 3582, Fair Home Health Care Act, 9:30 a.m., 2175 Rayburn.

Committee on Energy and Commerce, to consider the following measures: H.R. 1534, Mercury Export Ban Act of 2007; H.R. 3461, Safeguarding America's Families by Enhancing and Reorganizing New and Efficient Technologies Act of 2007; H.R. 2601 To extend the authority of the Federal Trade Commission to collect fees to administer and enforce the provisions relating to the ''Do-not-call'' registry of the Telemarketing Sales Rule; H.R. 3541, Do-Not-Call Improvement Act of 2007; H.R. 3526, To include all banking agencies within the existing regulatory authority under the Federal Trade Commission Act with respect to depository institutions; H.R. 3403, 911 Modernization and Safety Act of 2007; and H.R. 3919, Broadband Census of America Act of 2007; 10 a.m., 2123 Rayburn.

Committee on Financial Services, hearing entitled ''Transparency of Extractive Industries: High Stakes for Resource-Rich Countries, Citizens and International Business,'' 10 a.m., 2128 Rayburn.

Committee on Foreign Affairs, Subcommittee on Asia, the Pacific, and the Global Environment, and the Subcommittee on Terrorism, Nonproliferation, and Trade, hearing on The Six Party Process: Progress and Perils in North Korea's Denuclearization, 3 p.m., 2320 Rayburn.

October 25, Subcommittee on the Western Hemisphere, hearing on U.S. Security Assistance to Mexico, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, hearing on H.R. 3010, Arbitration Fairness Act of 2007, 2 p.m., 2141 Rayburn.

Subcommittee on Crime, Terrorism and Homeland Security, hearing on Organized Retail Theft Prevention: Fostering a Comprehensive Public-Private Response, 10 a.m., 2141 Rayburn.

Committee on Oversight and Government Reform, hearing on Iraq, 10 a.m., 2154 Rayburn.

Committee on Science and Technology, hearing on Health Insurer Consolidations, The Impact on Small Business, 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, hearing on The Impact of Railroad Injury, Accident, and Discipline Policies on the Safety of America's Railroads, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, oversight hearing on VETS DVOP/LVER Program, 2 p.m., 334 Cannon.

Permanent Select Committee on Intelligence, executive, briefing on Recent Middle East Events, 9 a.m., H–405 Capitol.

Select Committee to Investigate the Voting Irregularities of August 2, 2007, hearing on Voting in the House of Representatives—Rules, Procedures, Precedents, Custom and Practice, 8:30 a.m., H–313 Capitol.

Next Meeting of the SENATE

9:30 a.m., Thursday, October 25

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond 60 minutes), Senate will continue consideration of S. 294, Passenger Rail Investment and Improvement Act, and after a period of debate, vote on or in relation to Sununu Amendment No. 3453.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, October 25

House Chamber

Program for Thursday: Consideration of H.R. 3867—Small Business Contracting Program Improvements Act (Subject to a Rule).

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