SENATE—*Tuesday, December 4, 2001*

The Senate met at 9:30 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, on this day designated by Congress to be a Day of Reconciliation, we confess anything which stands between us and You and between us and anyone else. We long to be in a right relationship with You again. We know the love, joy, and peace that floods our being when we are reconciled with You. We become riverbeds for the flow of the supernatural gifts of leadership: wisdom, knowledge, discernment, vision, and authentic charisma. We confess our pride that estranges us from You and our judgmentalism that strains our relationships. Forgive our cutting words and hurting attitudes toward other religions or races and people with different beliefs, political preferences, or convictions on issues. So often we are divided into camps of liberal and conservative, Republican and Democrat, and are critical of those with whom we disagree. Help us to express to each other the grace we have received in being reconciled to You. May our efforts to reach out to each other be a way of telling You how much we love You. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW 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, December 4, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will consider the Transportation conference report under a 60-minute time agreement. A vote on the conference report will occur today. At approximately 10:30, the Senate will resume consideration of the Railroad Retirement Act with the Daschle substitute amendment pending under postcloture conditions. There will be rollcall votes on amendments to the Railroad Retirement Act during today's session.

The Senate will recess from 12:30 to 2:15 p.m. for the weekly party conferences.

On behalf of the majority leader, I have been asked to tell everyone we appreciate the cooperation yesterday. We are moving along on the legislation. There are just a few things left we have to do before we leave for the Christmas break.

RESERVATION OF LEADER TIME

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 2299, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2299) ''making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes,'' having met, have agreed that the House recede from its disagreement to the amendment of the Senate and the House agree to the same, with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD on November 29, 2001.)

The ACTING PRESIDENT pro tempore. Under a previous order, there will now be 60 minutes for debate.

The Senator from Washington.

Mrs. MURRAY. Madam President, I rise to bring before the Senate the conference report accompanying the Transportation appropriations bill for fiscal year 2002.

This conference agreement represents many weeks of negotiations with the House and the administration, and I am proud of the progress it will bring to our Nation's transportation system.

This conference agreement has already passed the House by an overwhelming margin of 371–11.

In total, the bill includes appropriations and obligation limitations totaling roughly $59.6 billion.

While that is about $1.5 billion more than the fiscal year 2001 level, it is approximately $400 million less than the amount passed by the Senate on August 1.

It was very difficult to pare $400 million out of the Senate bill, but we did so while carefully looking out for the needs of all of the critical agencies within the Department of Transportation as well as the Members' individual priorities.

The conference agreement provides funding levels that are equal to or higher than the operating accounts for agencies such as the Coast Guard, the FAA, and the National Highway Traffic Safety Administration.

Several important safety initiatives—that were included in the Senate bill—have been maintained, including: the hiring of new aviation safety and security inspectors, improvements to the Coast Guard's struggling search and rescue mission, and additional funding to increase seat belt use across the nation.

The bill before us also includes a full $1.25 billion in funding to launch the transportation security act, which is the aviation security bill that was enacted just a few days ago.

The act required that the revenues from its user fees be appropriated before becoming available.

The security act includes many strict deadlines for the improvement of our aviation security system.

And we expect the DOT to meet those deadlines.

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

That is why we worked hard to get the $1.25 billion in user fees into the hands of the Transportation Secretary in this bill as soon as possible—rather than wait for the Defense supplemental.

For highways, our bill includes $100 million more than the amount guaranteed under TEA–21.

The bill also fully funds the levels authorized under AIR–21 for the FAA's air traffic control improvements and airport grants.

When the Senate considered this bill, we spent a lot of time debating the safety of Mexican trucks entering the United States.

While the conference agreement provides the administration flexibility in implementation, it carefully follows the safety provisions of the bill that passed the Senate in August.

The safety requirements in this bill are considerably stronger than anything the administration had proposed, and anything that was presented to the Senate as an alternative during our debate this past summer.

Let me mention quickly just a few of the safety provisions in the bill.

Licenses will be checked for every driver transporting hazardous materials and for at least half of all other Mexican truck drivers every time they cross the border.

Mexican trucks will undergo rigorous inspections before they are allowed full access to our highways, and they will be reinspected every 90 days.

And trucking firms will need to demonstrate that they have a drug and alcohol testing program, proof of insurance, and drivers who have clean driving records before the first truck crosses the border.

There are many people to thank for their contributions to this bill.

The former chairman of the subcommittee and now its ranking member, Senator SHELBY has been a stalwart ally and regular contributor to our efforts.

Congressman ROGERS, the chairman of the House subcommittee is not only an outstanding chairman, he is a true Kentucky gentleman as well.

I also want to thank Representative SABO of Minnesota, the ranking member of the House subcommittee, whose leadership on the Mexican truck issue was essential to our getting an outstanding safety regimen in place.

As always, I thank Senator BYRD and Senator STEVENS for their assistance throughout the process.

I also thank the House and Senate Appropriations subcommittee staffs—along with some members of my personal staff who have worked a great many hours to bring together this conference agreement, including:

On the Senate subcommittee on Transportation appropriations, for the majority: Peter Rogoff, Kate Hallahan, Cynthia Stowe, and Angela Lee;

For the minority: Wally Burnett Paul Doerrer, and Candice Rogers,

On the House subcommittee on Transportation appropriations, for the majority: Rich Efford, Stephanie Gupta, Cheryle Tucker, Linda Muir, and Theresa Kohler;

For the minority: Bev Pheto;

On the chairman personal staff, Rich Desimone and Dale Learn;

On the Senate Commerce, Science, and Transportation Committee, Debbie Hersman.

I thank all these people who spent a lot of time helping us to get to this point. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SHELBY. Madam President, I yield myself as much time as I consume.

I rise in support of the fiscal year 2002 Transportation appropriations conference report before the Senate this morning. While I do not support every item, policy, program, or initiative in the conference report or statement of managers, I do support the package reported overwhelmingly from the conference committee and as just described by the Senator from Washington.

This is the first year the Senator from Washington is chair of the Transportation Appropriations Subcommittee, and I believe that she has accounted herself well on this bill. This is a balanced bill.

Clearly, the Mexican truck issue reflects that balanced approach. I believe that the Senator from Washington did an admirable job of managing this issue through a lengthy debate on the Senate floor and through the conference committee negotiations with the House and the administration.

The resolution of the Mexican truck issue allows for the safe opening of the border to Mexican trucks with appropriate inspections, oversight, and audits of Mexican-domiciled trucks and trucking companies. This compromise kept the focus on truck safety and security at our border and never lost sight of the need to work with the administration and the House to forge a workable solution.

Our approach on this issue was always to move the debate forward and allow a resolution based on safety standards rather than prohibiting any action by the department to manage the truck safety issues we face at our southern border. I think the conference report treatment of this matter meets that test.

The FAA, the Coast Guard, and the Department's new Transportation Security Agency are all adequately, if not generously, funded in this bill. The funding levels match the AIR 21 levels for the FAA's two capital accounts, and the funding for FAA operations meets the President's budget request.

Accordingly, the conference report meets the TEA 21 transit funding levels and increases the obligation limitation for highways above the TEA 21 firewalled levels. This funding commitment recognizes the priorities our colleagues in the Senate place on these accounts.

This is not only the first year of the Senator from Washington as the chair of this subcommittee, it is also the first year that Peter Rogoff has assisted her on the bill as the majority clerk. The committee and the Senator from Washington were both well served by Peter Rogoff—and his staff, Kate Hallahan, and Coast Guard Commander Cyndi Stowe.

I also commend Wally Burnett and Paul Doerrer of my staff on the committee. They worked hand in hand with the Democrats. I believe that is why we are where we are today, on the verge of adopting this conference report.

I urge all of my colleagues to support the conference report and send it to the President for his signature, with the type of overwhelming margin we saw in the other body of a 371-to-11 vote on the adoption of this report.

I reserve the remainder of my time and yield the floor.

Mr. BYRD. Mr. President, the Senate has now turned to consideration of the conference report accompanying the Transportation and Related Agencies Appropriations Act for Fiscal Year 2002. The bill includes a combination of appropriations and obligation limitations totaling $59.643 billion. That is $1.526 billion or 2.6 percent higher than the level provided for fiscal year 2001.

This is the ninth of the thirteen appropriations conference reports to come before the Senate. It is the ninth conference report that is within its 302 (B) allocation and it is fully consistent with the $686 billion bipartisan budget agreement on discretionary spending for the thirteen bills.

When the President signed the Transportation Equity Act for the 21st Century, he placed into law a provision I and my colleague from Texas, Senator GRAMM, championed here in the Senate. That provision served to guarantee that we appropriate every year on our Nation's highway system the funds that are received into the Highway Trust Fund through fuel taxes at the pump. I'm pleased to say that this year's Transportation bill, like every Transportation bill enacted since TEA–21, honors that commitment. Indeed, this year, for the first time since 1998, the Transportation bill provides more money for highways than was assumed in the highway guarantee—$100 million more. This is made possible since we still have an unobligated balance in the trust fund that existed before TEA–21 was enacted. So I commend the managers of the bill, Senators MURRAY and SHELBY, for making this significant investment in our Nation's highway infrastructure which is very much in

need of repair, restoration, and expansion.

As long as I have had the pleasure of serving on the Transportation Subcommittee, it has always operated in an open and bipartisan manner. I am pleased to see that this tradition has continued under the leadership of Senator MURRAY. She and Senator SHELBY have cooperated on all aspects of this bill. Both of them were required to take on the very contentious issue regarding the safety risks of Mexican trucks traveling on our highways. We debated that issue for several days here in the Senate and took a total of three cloture votes during that debate. Senators MURRAY and SHELBY stood their ground on the floor of the Senate and they prevailed. They then went to conference and negotiated a compromise with the House that maintains the strong safety requirements passed by the Senate but eliminates the threat of a veto against this bill.

I commend both managers and their respective staffs for a job well done and I encourage all members to support the conference report.

Mr. BAUCUS. Mr. President, I rise today to voice my concern regarding an element on the Fiscal Year 2002 Transportation Appropriation Conference Report. While I believe that this report, for the most part, spends funding according to statute and aids our Nation's transportation system, I am very concerned about the distribution of a major funding category.

The Transportation Equity Act for the 21st Century, TEA 21, was passed by the Congress in 1998 by overwhelming margins. For the first time receipts into the Highway Trust Fund were guaranteed to be spent for transportation purposes. This is accomplished through the annual calculation of Revenue Aligned Budget Authority, RABA, which makes adjustments in obligations to compensate for actual receipts into the Trust Fund versus the estimated authorization included in TEA 21 for the fiscal year.

While I am pleased that the Appropriations Committee has upheld the firewalls in this conference report, I find the redistribution of RABA funds to be unacceptable. Under TEA 21, RABA funds are to be distributed proportionately to the States through formula apportionments and also to allocated programs. This conference report is a radical departure from that and is a cause for great concern. States receive less money in this conference report than is called for under TEA 21. For that reason, this conference report is in violation of TEA 21.

I am dismayed to have to voice my concern regarding an otherwise beneficial transportation bill. However, as an author of TEA 21 and a believer in its principles, I am saddened to see TEA 21 violated at the expense of the States.

Mr. SMITH of New Hampshire. Mr. President, I rise to speak about the transportation appropriations conference report.

First, I wish to commend the Appropriations Committee members for their determination to protect our highways from unsafe Mexican trucks.

I am not eager for trucks to freely cross from Mexico into the United States, for many reasons, but I am pleased that these trucks will at least be required to pass a safety compliance review.

The remainder of my comments have to do with the portion of the conference report that funds the Federal-aid highway program.

As the ranking member of the Environment and Public Works Committee, with authorizing jurisdiction over the highway program, I am pleased with the overall funding level for Federal-aid highways.

As my colleagues will recall, one of the major accomplishments of TEA–21, passed by Congress in 1998, was that for the first time, gas tax revenues into the Highway Trust Funds were guaranteed to be promptly returned to the States for transportation spending.

This guarantee is accomplished with a provision in TEA–21 called Revenue Aligned Budget Authority, or RABA as it is known.

RABA calculations compare actual gas tax receipts to our 1998 estimates, and guaranteed funding will go up or down depending on whether we have more or less revenue in the Highway Trust Fund than TEA–21 anticipated.

Reflecting several years of a strong economy, gas tax receipts have been billions of dollars more than we anticipated in 1998.

This year, as guaranteed by TEA–21, the Federal-aid highway program is funded at almost $33 billion ($32.954 billion); an increase of about $1.2 billion over last year; which includes $4.5 billion from RABA funds.

As I said, I am pleased with the success of these funding guarantees.

But I am concerned about the diversion of over $1.5 billion to project earmarks instead of being distributed fairly under formulas developed in TEA–21.

There are 590 project earmarks from the Highway Trust Fund, and 55 more highway projects taken from the general fund.

I want to alert my colleagues to such extensive earmarking contained in this appropriations report.

This earmarking is mostly within discretionary programs created in TEA–21 and mostly funded with the RABA funds.

Almost a billion dollars in RABA funds are diverted away from the fair distribution that we agreed to in TEA–21, and are used for earmarks in this conference report.

This money does not get distributed evenly as authorized in TEA–21, but there are winners and losers.

Some States get a lot of this money for projects, some get very little.

This process completely distorts the funding formulas we agreed to in TEA–21.

It also distorts the discretionary programs we created in TEA–21 for projects that meet specified criteria.

For instance, one pilot program we created to fund local projects that link transportation and community needs, for instance, was authorized in TEA–21 at $25 million per year.

This year, that program has become the catch-all for project earmarks, with a total of 219 projects at a cost of $276 million.

This is incredible that a small discretionary program has grown to an earmarking account at over 10 times the authorized amount.

The Appropriations Committee began earmarking these TEA–21 accounts a few years ago, over strong objections from the authorizing committees, and the practice has grown exponentially each year.

Indeed, the Appropriations Committee has begun the practice of soliciting project requests, creating a terrible dilemma where the number of projects that Members submit far exceed any authorized amounts.

And now Members have no choice but to compete for these discretionary funds in the appropriations process.

I admit to requesting projects for my State that received funding only because the pot of money grew so large, again from $25 million to $276 million.

The Appropriations Committee has gone further now than in recent years toward making so many transportation project funding decisions.

I believe strongly that State and local agencies are responsible for transportation planning and funding decisions.

I much prefer to send Highway Trust Fund dollars back to the States and I do not think Congress should pick and choose projects.

Where any fault for this situation rests with the framework in TEA–21, we will address it in the reauthorization of TEA–21.

Next year the Environment and Public Works Committee will begin hearings on reauthorization, and I know that there is a lot of concern about this earmarking process.

I will vote in favor of this conference report for the good it contains, but I am compelled to register my strong objections to the hundreds of highway projects that do not belong in an appropriations bill.

Mr. SARBANES. Mr. President, I want to take a moment while the transportation appropriations conference report is pending before us to express my concern, as chairman of the Senate Banking Committee, which has jurisdiction over the Federal transit laws, about a provision in that report

that attempts by report language to rewrite established law by reducing the Federal match for New Start transit projects from 80 percent to 60 percent. I am referring to language in the conference report that would ''direct [the Federal Transit Administration] not to sign any new full funding grant agreements after September 30, 2002 that have a maximum federal share of higher than 60 percent.'' The Senate Banking Committee will begin to consider transit reauthorization issues next year. In the meantime, we have not had the benefit of any hearings or other public debate on this issue that would justify such report language.

Over 200 communities around the country, in urban, suburban, and rural areas, are considering light rail or other fixed guideway transit investments to meet their growing transportation needs. Recognizing this increasing demand, Congress in 1998 passed the Transportation Equity Act for the 21st Century, which authorized almost $8.2 billion over 6 years to fund these New Starts projects.

The process for evaluating and awarding a Federal grant under the New Starts program is laid out in the Federal transit laws, found in section 5309 of Title 49, United States Code. Section 5309(h) specifies that ''[a Federal] grant for [a New Starts] project is for 80 percent of the net project cost, unless the grant recipient requests a lower grant percentage.'' By including language in the conference report—not in the statute—directing the FTA not to sign new full funding grant agreements after September 30, 2002 with a Federal share greater than 60 percent, the conferees are seeking to direct the FTA to act contrary to existing law.

Efforts to alter the Federal share would disrupt the level playing field established when the Intermodal Surface Transportation Efficiency Act—ISTEA—set forth the 80 percent Federal cap for both highway and transit projects. ISTEA created a funding system by which communities could choose between transportation modes based on local needs, not based on the amount of Federal money available for the project. Seeking to lower the Federal match for transit projects while keeping the available highway match at 80 percent has the potential to skew the dynamics of choice for local communities.

It is true that there is very strong demand for New Starts funding. This is an issue which will be thoroughly considered as the transit laws are reauthorized in less than two years' time. Given the importance of the New Starts program to communities around the country, any proposal for dealing with this issue should be thoroughly considered. Report language directions to the FTA to act contrary to existing law are not a constructive contribution to this thorough consideration.

BUS REPLACEMENT

Mr. HARKIN. Mr. President, the conference report indicates that $5 million is provided for bus replacement in Iowa. But, it is my understanding that the intent was to allow these funds which have been allocated in a collaborative process involving the Iowa DOT and the local transit authorities to be used for bus replacement, bus expansion and for facility and equipment costs.

Mrs. MURRAY. Mr. President, the Senator from Iowa is correct regarding the allocation of these funds. The intention is that the funds may be used for the authorized purposes that you noted.

FUNDING OF TRANSPORTATION SECURITY IMPROVEMENT MEASURES

Mr. LIEBERMAN. I say to Senator MURRAY, I would like to confirm my understanding that between the funding you have included in the conference report for the Transportation Security Administration and the funding included in the bill for the Federal Aviation Administration's research, engineering and development, there are sufficient funds for the expanded use of existing technology and research and development of new technology to improve aviation security. Is that correct?

Mrs. MURRAY. The Senator is correct. The funds appropriated are intended to cover those costs.

PAYMENT FOR WORK PERFORMED

Mrs. HUTCHISON. Mr. President, regarding this week's Senate passage of the fiscal year 2002 Transportation appropriations conference report, Senator DURBIN and I have recently become aware that several of the major contractors on the Tren Urbano project have substantial disputes outstanding with Puerto Rico concerning payment for work performed on the project. I find this troubling given the extent of oversight we have come to expect of major transit projects like this one.

Mr. DURBIN. I certainly agree with Senator HUTCHISON. It is indeed important that these transit projects be managed efficiently, and preferably without dispute; otherwise, these projects are viewed by the contracting community as more risky, and thus they become more costly to deliver, to the detriment of the taxpayers who ultimately bear the financial burden of these projects.

Mrs. HUTCHISON. I understand that the FTA is currently withholding approximately $165M of funding for the Tren Urbano Project, and has required a more accurate cost estimate and schedule for the Project than has been previously furnished.

Mr. DURBIN. I want to encourage FTA to release only such funds as it considers appropriate in order to resolve outstanding disputes with respect to payment for work performed on the Tren Urbano project, and suspend all further Federal funding for the project.

Mrs. HUTCHISON. I concur with the Senator and, if such disputes have not been resolved by March 1, 2002, would further request that the Inspector General promptly report back to the House and Senate Committees on Appropriations on FTA's assessment of (i) The reasons why such disputes remain unresolved, (ii) the cost impact of such disputes, and (iii) the IG's recommendation, if appropriate, for a more cost effective dispute resolution process.

The ACTING PRESIDENT pro tempore. Who yields time?

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

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator will withhold.

Mrs. MURRAY. I ask the Senator to ask the time be equally divided and request he retain the remainder of the time of the chairman and ranking member toward the end.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Madam President, for the information of all Members, the majority leader has indicated that the vote on this matter will occur at 12:30 today.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Without objection, the quorum call will be charged as previously specified.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Madam President, how much time am I allowed?

The ACTING PRESIDENT pro tempore. The Senator has 8 minutes.

Mr. DORGAN. Madam President, I shall not take all 8 minutes. I understand there is a long line of people wishing to speak on this conference report later.

First of all, I compliment the chairman and ranking member from the Senate side. I think they have done an extraordinary job on the conference report. I appreciate the work they have done on a range of issues. I think the Senate owes them a debt of gratitude.

I could spend some long period of time talking about the important provisions in this Transportation conference report. I know it took a long

while to get to this point. Senator MURRAY, chairing the subcommittee on the Senate side, and others who have worked on this bill for some length of time undoubtedly wish this had been completed much earlier, but there were a series of things that prevented it from happening. In any event, at the end of this session we have a conference report that contains a lot of important items for this country's transportation system. I compliment Senator SHELBY and Senator MURRAY and thank them for their work.

I do want to say—and I will say it briefly—there are two items in the conference report that provide some heartburn for me. The conference was required—or forced, I guess—to accept a provision dealing with the spending of $400,000 to put airport signs up that describe National Airport really as Reagan National Airport. This conference report, because the House insisted, requires the Metro Airport Authority to spend $400,000 changing signs so that people will not be confused that they are at the airport when, in fact, the signs now say ''National Airport.''

George Will had a little something to say about that in a piece in April of this year. He said:

> Travelers too oblivious to know they are at an airport, when large, clear signs say they are, should be given those little plastic pilot wings that are issued to unaccompanied children taken into protective custody. The conservatives want to get Congress to order Metro officials to spend several thousand dollars to add Reagan's name to the station signs and all references to the station on the maps.

He is talking about the station at the Metro stop.

He said:

> Reagan had a memorable thing or two to say about bossy Federal institutions meddling in local affairs.

I want to make the point that the House of Representatives has insisted on this for some long while. I regret they forced their will into this conference. I think it is a waste of $400,000 that probably could have better been used, if the House had thought clearly about this, for security.

We have a range of security needs, given post-September 11, on a range of transportation systems. I would have much rather seen, if the $400,000 is to be spent, that it be spent on Metro security. I know the Senators from Washington and Alabama share my concern about that.

Let me make one additional point, and that is on the issue of Mexican trucks. The House of Representatives had a provision that actually prohibited the Mexican trucks from coming into this country beyond the 20-mile limit. The Senate provision was not as strong but was a pretty good provision. I would have preferred a stronger provision. The provision that came out of conference is weaker than both.

I understand the work that Senator MURRAY and Senator SHELBY did. I am not here to criticize their work. I respect the work they did in conference to try to resolve this issue. They make the point—and it is an accurate point—that this is a restriction on funding for 1 year during the appropriations year. So this issue will not be concluded with this judgment in this conference committee. This issue will be a part of the interests of the authorizing committee, oversight by this subcommittee, and also will be a part of the interest of others of us in the Congress who still believe it will be unsafe to have any wholesale movement of Mexican trucks beyond the 20-mile border limit.

It is interesting to me that we now have a limitation on the movement of Mexican trucks in this country, and yet Mexican truck drivers with Mexican trucks have been apprehended in North Dakota, which, of course, is significantly beyond the 20-mile limit from the Mexican border. And it is true they have been apprehended in a good many other States as well.

We have a lot of difficulties, problems, and concerns trying to merge two different kinds of economies with respect to transportation, two different kinds of systems dealing with short- and long-haul trucks, and two different safety standards, different standards with respect to both drivers and trucks.

I wish we had in fact had the House position, which originally came to conference with a prohibition until adequate safety standards were in place and adequate inspection opportunities were in place. That, regrettably, is not the case. And I am not here to suggest that our two Senators—Senator MURRAY and Senator SHELBY—in any way weakened this provision. I am here to say the conference itself forced that weakening. I think that will not and cannot be the last word on this subject. Those on the authorizing committee and those of us who will return to this subject in the appropriations process next year will have more to say.

But having spoken on both of those issues, let me again say to my colleague, Senator MURRAY, and my colleague, Senator SHELBY, they operate in good faith and do an extraordinary job. They run a subcommittee that is very important to this country, especially again in relation to post-September 11, the issue of transportation, the security of our transportation systems in the country.

Our transportation industry is so important to this country's economy. There is no way you can overstate it. The appropriations bill offered to us today by Senators MURRAY and SHELBY is an appropriations bill that I think the Senate will want to approve. This conference report will get the Senate's approval today.

Madam President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. If the Senator will withhold, the Chair recognizes the Senator from Washington.

Mrs. MURRAY. Madam President, I ask unanimous consent the time be divided as before.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I understand under the UC I have 15 minutes; is that correct?

The PRESIDING OFFICER. The time has been reduced by a series of quorum calls. The Senator has 6 minutes.

Mr. MCCAIN. Six minutes. Mr. President, I ask unanimous consent I be granted 4 additional minutes.

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

Mr. MCCAIN. Mr. President, I wish to express my strong opposition to the conference agreement on H.R. 2299, the fiscal year 2002 Transportation appropriations bill approved by the House and Senate conferees last week.

I once again find myself in a position in which I must express strong concerns with yet another appropriations bill. This measure, like the eight appropriations bills approved by the Congress this year and like so often has been the case during recent years, continues what I believe is an inappropriate overreach by the appropriators in an effort to fulfill their own agendas at the expense of both current law and the work of the authorizers.

They again are redirecting programmatic funding, funding that in many cases is authorized to be distributed by formula or at the discretion of the Secretary and based on competitive merit.

Instead of allowing the normal funding distribution process to go forward, the appropriators have earmarked that funding for pet projects for the members of the Appropriations Committee.

Before citing a host of examples of the pork barrel spending associated with this conference report, I want to first address the very important trade issue that the appropriators have tied to the pending measure, that is, the North American Free Trade Agreement, NAFTA.

As my colleagues well know, provisions in both the House and the Senate versions of the Transportation appropriations bill proposed to restrict the administration's ability to abide by our obligations under NAFTA. As a result of this fact, the Statement of Administrative Policy included a very

clear and direct veto threat stating that ''the Senate Committee has adopted provisions that could cause the United States to violate our commitments under NAFTA. Unless changes are made to the Senate bill, the President's senior advisors will recommend that the President veto the bill.''

Several of us also strongly objected to the appropriators' actions. As a result, we spent considerable floor time—nearly two full weeks in July—discussing the importance of NAFTA and our obligation to abide by our commitments to our trading partners.

At no time has the senior Senator from Texas or I argued that safety concerns were not of considerable importance in this debate. In fact, it was our proposal offered as an alternative to the Senate version that first called for an inspection of every Mexican truck similar to the model used in the State of California at the border.

Indeed, the proponents of NAFTA have had one goal since this issue surfaced in the DOT appropriations legislation this summer. From the beginning, our goal has been to ensure the appropriators did not succeed in their attempts through the DOT appropriations bill to effectively alter our solemn agreement with our neighbors to the South. If our trading partners are subject to the whimsical mood of the appropriators, how can we ever expect any nation that we have executed a trade agreement with, or one we are seeking to enter into trade agreements with, to have any faith that our word is true and we will abide by our agreements? If the appropriators' agenda had prevailed, I shudder to consider the consequences and the impact as we attempted to seek to negotiate new trade agreements or renewed ones.

After receiving assurances from the ranking member of the Appropriations Committee that he would work with the administration to ensure the conference agreement would not include any provisions that would prevent use from abiding by our NAFTA commitments, the senior Senator from Texas and I agreed to forgo some of our procedural rights and allowed the bill to go to conference without several additional votes and the expenditure of additional floor time. While early into the conference the Senate managers of the bill issued a release indicating a determination to provoke a Presidential veto, the appropriators finally agreed last week to incorporate provisions agreeable to the administration.

Upon hearing of the agreement with respect to Mexican trucks last week, I raised reservations over some of the provisions that I felt could be troublesome. However, in response to these concerns, the administration has assured us the agreement is not in violation of NAFTA. Last Friday, November 30, the White House issued the following statement of the President:

The compromise reached by the House and Senate appropriators on Mexican trucking is an important victory for safety and free trade. We must promote the highest level of safety and security on American highways while meeting our commitments to our friends to the South. The compromise reached by the conferees will achieve these twin objectives by permitting our border to be opened in a timely manner and ensuring that all United States safety standards will be applied to every truck and bus operating on our highways.

Moreover, I have received a letter from U.S. Trade Representative, Robert Zoellick, which states:

The Administration supports the agreement reached by the House and Senate appropriators on Mexican trucking as fully promoting highway safety and U.S. trade commitments. In addition, it will permit the United States to meet the commitments made to Mexico as part of the North American Free Trade Agreement.

I ask unanimous consent a copy of that letter be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, THE UNITED STATES TRADE REPRESENTATIVE,

Washington, DC.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I am writing to convey the Administration's views on Section 350 of H.R. 2299, the Department of Transportation's appropriations bill for fiscal year 2002.

The Administration supports the agreement reached by the House and Senate appropriators on Mexican trucking as fully promoting highway safety and U.S. trade commitments. In addition, it will permit the United States to meet the commitments made to Mexico as part of the North American Free Trade Agreement.

Sincerely,

ROBERT B. ZOELLICK.

Mr. MCCAIN. Additionally, I note the conference report does include additional funding to address the many safety related enforcement requirements concerning Mexican carriers and drivers. While much of my statement today will express disagreement to the actions of the appropriators, in this case I want to note for the record that they have worked to provide sufficient funding to allow DOT to carry out the requirements with respect to the Mexican trucking issue and enable the border to be opened in a time-frame deemed appropriate by the administration.

Mr. President, enactment of this legislation will not be the end of our due-diligence to ensure we are allowed to open the border to Mexican carriers and in turn, allow American carriers to do business in Mexico. I intend to stay vigilant on this very important issue and will monitor the administration's actions with respect to the border opening in my capacity as ranking member of the Senate Committee on Commerce, Science, and Transportation. I remain committed to doing all I can to ensure the border is open consistent with our obligations under NAFTA while protecting the safety of the American traveling public.

Mr. President, this is a bittersweet victory for highway safety and free trade. On the one hand the United States will be allowed to keep its promise to abide by its solemn treaty. Yet on the other hand, the egregious process of pork barrel earmarking continues. Unless you are from a state with a member on the Appropriations Committee, your State's transportation dollars most likely will be reduced by enactment of this bill which in many cases redirects authorized funding programs for the sake of the home-state projects of the appropriators.

I recognize that there are very important provisions in the legislation, sections that appropriate funds for programs vital to the safety and security of the traveling public and our national transportation system over all. Yet despite that necessary funding, and the fact that the legislation is not in violation of NAFTA, it once again goes overboard on pork barrel spending.

It is so bad, in fact, yesterday's Wall Street Journal included an article highlighting the very egregious actions of the appropriators to reduce state transportation dollars and direct those funds to earmarked projects. The article is entitled ''Bill Gains To Cut State-Controlled Highway Funds.'' I ask unanimous consent that the article be printed in the RECORD.

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

BILL GAINS TO CUT STATE-CONTROLLED HIGHWAY FUNDS

(By David Rogers)

WASHINGTON.—In a total display of patronage politics, Congress is poised to remove nearly $450 million of federal highway aid from state control to instead spend the money on road projects selected by lawmakers.

The appropriations leadership added the provision to a $59.6 billion transportation budget for fiscal-year 2002 that was filed just before dawn Friday and rushed through the House hours later, where it passed 371–11. Tight limits on Senate debate all but ensure final passage this week, despite complaints that lawmakers are tampering with funding formulas laid out in the 1998 highway act.

Until the dust settles, it is difficult to say precisely how individual states will fare, but three—Kentucky, Alabama, and West Virginia—are clear winners. Rep. Hal Rogers (R., Ky), who led the House negotiators, engineered the arrangement and used it to corral extra dollars for his state. Alabama had three votes at the negotiating table, including Sen. Richard Shelby, the Senate's top GOP negotiator. West Virginia needed only one, Sen. Robert Byrd, chairman of the Appropriations panel and a master at capturing highway money for his rural state. Among the four largest earmarked highway accounts, Kentucky, West Virginia and Alabama are promised $211 million, almost a fifth of the $1.1 billion total.

Never before has the Appropriations leadership gone so far in tampering with the 1998 highway act, which was built on the premise that federal gas-tax receipts should be returned quickly to the states regardless of other federal spending priorities. The act even created a mechanism to adjust authorized highway funding upward as revenue rose. In recent years, that pot of money—identified by the title Revenue Aligned Budget Authority, or RABA—has exploded, reaching $4.5 billion this year.

Under the highway law, $3.95 billion was to be apportioned among the states this year with the remaining $574 million going to about 40 highway programs authorized in the highway act and administered through the Transportation Department. The bill would cut the state share to $3.5 billion and combine the extra $450 million with the $574 million, creating a $1 billion-plus pot.

The negotiators made wholesale changes in the priorities set in the highway act, substituting projects they favor for the ones preferred by the House and Senate transportation committees that wrote the highway law. A $25 million community-preservation pilot program, for example, ballooned to $276 million, with virtually each dollar earmarked as to where it should be spent.

The Bush administration had opened the door by proposing changes in how RABA dollars are distributed. Negotiators said the $3.5 billion apportioned to the states narrowly exceeds the amount proposed in the president's budget, and an additional $100 million has been added elsewhere to core highway funds available to the states. There is little doubt the deal was driven by pork-barrel politics. There were bitter fights over unsuccessful Republican attempts to deny money for vulnerable Democrats in conservative House districts in Mississippi and Arkansas.

The bill would impose a much tougher safety regimen than the White House had wanted for Mexican trucks that are due to begin operating in the U.S. next year. The Transportation Department expects to meet the requirements and open the border by the spring—just a few months later than planned. But the final settlement is a personal victory for Rep. Martin Sabo (D., Minn.) and Sen. Patty Murray (D. Wash.), the two managers of the bill who had insisted lawmakers must consider safety.

For Sen. Byrd, there will be more at stake than the transportation bill. The West Virginia Democrat will be at center stage again this week, which he is expected to force Senate roll calls on adding more money for homeland security to a pending Pentagon budget. Though the White House should win an early procedural vote, Sen. Byrd appears prepared to confront Republicans with the choice of accepting the money or pulling down the entire military budget.

Mr. McCAIN. Mr. President, I ask my colleagues, how much longer are we going to let the appropriators subordinate the jurisdiction and responsibilities of the authorizers? Didn't most of us think the multi-year highway funding legislation, known as TEA–21, would essentially be the law of the land through fiscal year 2003 with respect to highway funding formulas and state apportionments? I guess we were wrong, given the appropriations reprogramming maneuvers.

Let me again quote from the Wall Street Journal: ''The negotiators made wholesale changes in the priorities set in the highway act, substituting projects they favor for the ones preferred by the House and Senate transportation committees that wrote the highway law.'' This is precisely why no projects should be earmarked by either the authorizers or the appropriators and we should instead allow the states to fund the projects that meet the legitimate transportation needs of their states.

Mr. President, the Revenue Aligned Budget Authority—RABA—funds mentioned in the article are to be distributed proportionately to the states through formula apportionments and to allocated programs. This conference report represents a fundamental departure from that approach.

To pay for some of the report's many earmarks, $423 million will be redirected from state apportionments, meaning the states lose 10.7 percent of RABA funds from the regular formula program. Further, another $423 million will be redistributed from allocated programs in a manner in which the appropriators have selected programmatic winners and losers. In fact, 24 of 38 highway funding programs will receive none of the funding under RABA they were to receive before the appropriators' stroke of pen. But again, if you have the good fortune to reside in a state with a member in a leadership position on the DOT Appropriations Subcommittee, you are among the winners in this appropriations bill lottery. I ask unanimous consent that two charts prepared by the Federal Highway Administration to show the impact on each state and the allocated programs through the RABA redistributing work of the appropriators be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—ESTIMATED RABA DISTRIBUTION

Federal-aid highway programs	TEA–21	Conference	Difference
Apportioned Programs	3,968,764,800	3,545,423,946	(423,340,854)
Allocated Programs:			
Federal Lands Highways Program:			
Indian Reservation Roads	36,050,486	36,565,651	(484,835)
Public Lands Highways	32,249,049	31,815,091	(433,958)
Park Roads and Parkways	21,631,440	21,339,391	(292,049)
Refuge Roads	2,624,255	2,586,593	(37,662)
National Corridor Planning & Devel. & Coord. Border Infrastructure Pg	18,633,932	352,256,000	333,622,068
Construction of Ferry Boats and Ferry Terminal Facilities	5,059,012	25,579,000	20,519,988
National Scenic Byways Program	3,393,730	3,348,128	(45,602)
Value Pricing Pilot Program	1,464,300	0	(1,464,300)
High Priority Projects Program	236,671,037	0	(236,671,037)
Highway Use Tax Evasion Projects	666,113	0	(666,113)
Commonwealth of Puerto Rico Highway Program	14,642,998	0	(14,642,998)
Woodrow Wilson Memorial Bridge	29,946,366	0	(29,946,366)
Miscellaneous Studies, Reports, & Projects	2,503,665	0	(2,503,665)
Magnetic Levitation Transp. Tech. Deployment Program	0	0	0
Transportation and Community and System Preservation Pilot Program	3,324,822	251,092,600	247,767,778
Safety Incentive Grants for Use of Seat Belts	14,907,146	0	(14,907,146)
Transportation Infrastructure Finance and Innovation	15,969,481	0	(15,969,481)
Surface Transportation Research	13,442,846	0	(13,442,846)
Technology Deployment Program	5,989,273	0	(5,989,273)
Training and Education	2,526,635	0	(2,526,635)
Bureau of Transportation Statistics	4,128,751	0	(4,128,751)
ITS Standards, Research, Operational Tests, and Development	13,976,885	0	(13,976,885)
ITS Deployment	15,969,481	0	(15,969,481)
University Transportation Research	3,525,804	0	(3,525,804)
Emergency Relief Program	13,310,772	0	(13,310,772)
Interstate Maintenance Discretionary	13,310,772	76,025,000	62,714,228
Territorial Highways	4,846,545	0	(4,846,545)
Alaska Highway	2,503,665	0	(2,503,665)
Operation Lifesaver	68,908	0	(68,908)
High Speed Rail	700,567	0	(700,567)
DBE & Supportive Services	2,664,451	0	(2,664,451)
Bridge Discretionary	13,310,772	62,650,000	49,339,228
Study of CMAQ Program Effectiveness	0	0	0
Long-term Pavement	0	10,000,000	10,000,000
New Freedom Initiative	0	0	0
State Border Infrastructure	0	56,300,000	56,300,000
Motor Carrier Safety Grants	24,221,241	23,896,000	(325,241)
Public Lands Discretionary	0	45,122,600	45,122,600
Subtotal, allocated programs	574,235,200	997,576,054	423,340,854

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—ESTIMATED RABA DISTRIBUTION—Continued

Federal-aid highway programs	TEA–21	Conference	Difference
Total	4,543,000,000	4,543,000,000	

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—DISTRIBUTION OF ESTIMATED FY 2002 REVENUE ALIGNED BUDGET AUTHORITY

States	TEA–21	Conference	Difference
Alabama	78,660,918	70,270,303	(8,390,615)
Alaska	47,506,115	42,438,725	(5,067,390)
Arizona	71,794,955	64,136,719	(7,658,236)
Arkansas	50,998,628	45,558,698	(5,439,930)
California	357,228,521	319,088,155	(38,140,386)
Colorado	51,633,630	46,125,966	(5,507,664)
Connecticut	59,372,721	53,039,542	(6,333,179)
Delaware	18,097,567	16,167,133	(1,930,434)
Dist. of Col.	15,517,870	13,862,608	(1,655,262)
Florida	187,841,638	167,804,915	(20,036,723)
Georgia	141,803,966	126,677,998	(15,125,968)
Hawaii	20,042,262	17,904,391	(2,137,871)
Idaho	28,813,232	25,739,778	(3,073,454)
Illinois	129,699,234	115,864,455	(13,834,779)
Indiana	91,837,217	82,041,110	(9,796,107)
Iowa	46,752,049	41,765,094	(4,986,955)
Kansas	45,442,357	40,595,104	(4,847,253)
Kentucky	68,342,130	61,052,200	(7,289,930)
Louisiana	61,436,479	54,883,163	(6,553,316)
Maine	20,796,328	18,578,021	(2,218,307)
Maryland	64,532,116	57,648,593	(6,883,523)
Massachusetts	71,715,580	64,065,811	(7,649,769)
Michigan	126,563,909	113,063,570	(13,500,339)
Minnesota	57,110,525	51,018,651	(6,091,874)
Mississippi	50,720,814	45,310,518	(5,410,296)
Missouri	90,924,402	81,225,663	(9,698,739)
Montana	40,640,152	36,305,141	(4,335,011)
Nebraska	31,472,305	28,150,666	(3,321,639)
Nevada	28,932,295	25,846,141	(3,086,154)
New Hampshire	19,605,698	17,514,394	(2,091,304)
New Jersey	100,687,563	89,947,406	(10,740,157)
New Mexico	38,735,144	34,603,338	(4,131,806)
New York	197,128,548	176,101,207	(21,027,341)
North Carolina	111,046,039	99,200,962	(11,845,077)
North Dakota	26,630,412	23,789,795	(2,840,617)
Ohio	136,327,071	121,785,313	(14,541,758)
Oklahoma	60,722,101	54,244,986	(6,477,115)
Oregon	46,434,548	41,481,460	(4,953,088)
Pennsylvania	186,849,447	166,918,559	(19,930,888)
Rhode Island	24,050,715	21,485,269	(2,565,446)
South Carolina	67,429,314	60,236,753	(7,192,561)
South Dakota	27,979,792	24,995,239	(2,984,553)
Tennessee	89,614,709	80,055,673	(9,559,036)
Texas	310,674,910	277,535,786	(33,139,124)
Utah	30,202,300	26,980,676	(3,221,624)
Vermont	18,375,381	16,415,313	(1,960,068)
Virginia	103,703,824	92,641,928	(11,061,896)
Washington	68,461,193	61,158,563	(7,302,630)
West Virginia	41,711,718	37,262,406	(4,449,312)
Wisconsin	77,986,228	69,667,581	(8,318,647)
Wyoming	28,178,230	25,172,507	(3,005,723)
Subtotal	3,968,764,800	3,545,423,946	[1](423,340,854)
Allocated Programs	574,235,200	997,576,054	423,340,854
Total	4,543,000,000	4,543,000,000	0

[1] Represents (−10.7%).

Mr. McCAIN. In addition to the RABA funding shell game, host of other actions by the appropriators merit concern. For example, section 330 of the conference report appropriates $144 million in grants for surface transportation projects while the Statement of Managers then earmarks the entire allotment for 55 projects in 31 States. I should point out that the Senate-passed version of the appropriations bill provided $20 million for these grants, not a dime of which was earmarked, while the House bill did not appropriate any funding for such grants. But through the will of the conferees, the level of funding for surface transportation projects grants are increased by $124 million and the conferees have recommended earmarks for every penny of the grant funding instead of allowing it to be made available for distribution on a competitive or meritorious basis.

Examples of these earmarks included in the Statement of Mangers include: $1.5 million for the Big South Fork Scenic Railroad enhancement project in Kentucky; $2 million for a public exhibition on ''America's Transportation Stories'' in Michigan—this sounds like a very critical and legitimate use of transportation dollars—and one of my favorites, $3 million for the Odyssey Maritime Project in Seattle, WA. What makes this last one a highlight is that the ''Odyssey Maritime Project'' is not a surface transportation project of all. It is, in fact, a museum. But the sponsor of that project must not have wanted us to really know what the funding was being allocated for and instead chose to incorporate some cleaver penmanship to mask the true nature of the so-called transportation project.

With respect to the Coast Guard, the conference report earmarks $2,000,000 for the Coast Guard to participate in an unrequested joint facility that would locate a new air station in Chicago with a new facility that would also house city and State facilities. The new marine safety and rescue station is not justified, not requested, and in fact would provide duplicative air coverage already met by other Coast Guard air stations.

The conference report also earmarks $4,650,000 to test and evaluate a currently developed 85-foot fast patrol craft that is manufactured in the United States and has a top speed of 40 knots. Interestingly, there is only one company with such a patrol craft, Guardian Marine International, LLC., and it is based in the State of Washington. The Coast Guard did not request this vessel, does not need this vessel, nor does this vessel meet the Coast Guard's requirements. The Coast Guard's resources are already stretched thin and this will only hamper its ability to meet its new challenges since September 11. But again, the appropriators know best.

The conference report further earmarks $500,000 for the Columbia River Aquatic Non-indigenous Species Initiative—CRANSI—Center at Portland State University in Portland, Oregon, to support surveys of nonindigenous aquatic species in the Columbia River. This earmark is directly taking away much needed Coast Guard R&D funds that could be used to fight the war on drugs, protect our ports, or aid in search and rescue efforts.

And, as with other modes of transportation, the appropriators have larded the DOT's aviation programs with numerous earmarks and authorizing language that is within the jurisdiction of the Commerce Committee. For example, the Statement of Managers earmarks more than $206 million in FAA facilities and equipment projects at dozens of specific airports. I am not sure how the appropriators seem to know precisely which pieces of equipment need to be installed at which airports, but I believe that we should be leaving these decisions to the FAA. The more projects that are forced upon the agency, the less ability it has to focus on those that are truly needed to enhance safety and capacity.

The appropriators do the same thing when it comes to airport projects and the expenditure of discretionary funds. The Statement of Managers earmarks more than 100 specific airport construction projects totaling more than $200 million. Once again, this is intended to take away significantly from the discretion of the FAA to determine the most important needs of the system as a whole.

This might be the time to remind the Secretary and the modal administrators that the slew of projects included in the Statement of Managers are advisory only. The Statement of Managers does not have the force of law and the FAA and other modal agencies must exercise its judgment in complying with the recommendations of the managers.

While the aviation earmarking is bad, the raiding of existing aviation accounts for unrelated purposes is even worse. The FAA's Airport Improvement Program is supposed to be devoted to the infrastructure needs of our nation's airports. Yet the conference report takes tens of millions of dollars out of AIP to pay for the FAA's costs of administering AIP, the Essential Air Service program, and the Small Community Air Service Developing Pilot Program. These are worthy activities and programs, but it violates the long-established purpose of AIP to use monies for these things.

Mr. President, last year I warned that we should just as well get rid of DOT and let the appropriators act as the authorizing agency since they so routinely substitute their own judgment for that of the agency's. Well, apparently I have a job in my retirement predicting the future. There is a provision in this bill that prohibits the use of any funds for a regional airport in southeast Louisiana, unless a commission of stakeholders submits a comprehensive plan for the Administrator's approval. While that is not necessarily good government, that is well within the agency purview. However, the bill goes further and requires that if the Administrator approves the plan, it must be then submitted to the Appropriations Committee for approval before funds can be spent.

This is unconscionable. Clearly the appropriators do not want this airport

to be funded unless they say so. Are the appropriators now going to require that every decision that is made by the oversight agency be approved by them first? Will the Administrator or Secretary have to send letters regarding transportation policy to Congress for approval? Will DOT leave requests and travel schedules have to be sent to the Appropriations Committees? Where does this end? I understand that Congress is supposed to act as a check and balance to the executive branch, but I must ask, who is serving as a check and balance to the appropriators? At a minimum, isn't it supposed to be the authorizers? But passage of this conference report will provide clear proof that once again there are no checks and there is no balance.

Mr. President, I could go on and on but will refrain. It is hard to imagine but despite the seemingly unlimited lists of projects and funding redirectives provided for in this bill, it actually could have been worse. The appropriators did rightly reject some of the requests and wish-lists they received, such as including language to effectively alter the federal cap on the Boston Central Artery Tunnel Project—the Big Dig—or to take action to eliminate the Amtrak self-sufficiency requirement now that the Amtrak Reform Council has made its finding that Amtrak will not meet its statutory directive. Perhaps if the requesters were appropriators, their Christmas wish list would have been fulfilled as well. I tell my colleagues, I will be going all over the country discussing this egregious, outrageous procedure which has gone completely out of control on a bipartisan basis. Of all the years I have seen this egregious porkbarrel spending, this is one of the worst.

The PRESIDING OFFICER. The Senator from Washington has 5 minutes remaining; the Senator from Alabama has 5 minutes remaining.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. SHELBY. 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. SHELBY. I yield 3 minutes of my time to the Senator from Pennsylvania, Mr. SPECTER.

Mr. SPECTER. Mr. President, I thank my colleague from Alabama for yielding me a brief period of time to comment about an omission from the appropriations conference report involving a constituent company of mine, Traffic.com. There had been an arrangement worked out in previous legislation. This would have given Traffic.com a followup contract for some $50 million where they have devised systems for monitoring traffic on the highways so the people can be informed where there is traffic congestion.

The first contract was awarded to Traffic.com under an arrangement where the second would follow through. There was competitive bidding for the first contract. The Department of Transportation wanted clarification, which was added in this Chamber on an amendment which was accepted to give the followup contract to Traffic.com. Then when we went to conference last week, I was informed a few minutes before the conference began that the provision had been dropped. There had been no notification.

When I raised the issue in the conference, I was advised there was legislation which prohibited this arrangement which they characterized as ''sole source contracting,'' but, in fact, it was not because the first contract had been competitively bid with the understanding that the second contract would follow.

In any event, our research in the interim since the conference committee met last week, to today, shows there is no legislative prohibition against this arrangement, even if it were sole source contracting, which, I repeat again, it is not. We then discussed at the conference the approach of having it included in the supplemental appropriations bill, which we are working on now. The Appropriations Committee is meeting this afternoon.

I thank the distinguished chairman of the subcommittee, Senator MURRAY, and the distinguished ranking member, Senator SHELBY, for commenting at that time they would support the effort to get it in the supplemental appropriations bill so we hope we can be cured at that time.

I did want to make the brief statement on the record at this point. I thank Senator SHELBY for yielding me the time. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. How much time remains?

The PRESIDING OFFICER. Three minutes five seconds.

Mr. SHELBY. I yield that time back.

UNANIMOUS CONSENT AGREEMENT

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Under the authority granted to the majority leader by the unanimous consent agreement of December 3, I ask unanimous consent that the vote on adoption of the conference report to accompany H.R. 2299, the Transportation appropriations bill occur at 12:30 p.m. today, without further intervening action, and I now ask for the yeas and nays on adoption.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Mrs. MURRAY. Mr. President, back in July and August, the Senate spent a lot of time talking about the safety of Mexican trucks.

Originally, the White House wanted to allow Mexican trucks to travel throughout the United States without sufficient safety checks.

That raised real safety concerns for everyone from the Advocates for Highway & Auto Safety to the AAA of Texas.

The House of Representatives, meanwhile, voted to prevent any Mexican trucks from traveling beyond a limited area near the border.

I have always believed that we could ensure our safety and promote commerce at the same time.

So Senator SHELBY and I—working with our colleagues on both sides of the aisle—created a commonsense safety plan.

The Senate turned back several amendments—and voted twice with strong bipartisan super-majorities—to invoke cloture both on the committee substitute and the bill itself.

This summer, there were several attempts to weaken the safety provisions, but the Senate consistently rejected them.

And I am proud to say that the final conference agreement strictly adheres to the outlines of the Senate bill.

This agreement prohibits the border from being opened to Mexican trucks until the DOT implements a number of important safety measures, and until the DOT's inspector general has concluded a thorough audit of the Department's efforts.

I would like to spend a moment comparing the conference agreement with the administration's original plan.

Let me start with compliance reviews, which are comprehensive inspections of a trucking firm's vehicles, its management systems, and all of its license, insurance, and maintenance records.

It looks at the trucking firm's operating and violation histories and yields a decision as to whether the firm should be allowed to continue operating in the U.S.

Under the administration's plans, there was never going to be a requirement that a Mexican trucking firm undergo a compliance review.

The conference agreement, however, includes a requirement that each and every Mexican trucking firm undergo a compliance review before being granted permanent operating authority. There are no exceptions.

Let's look at on-site inspections.

The administration never intended to require that inspections by U.S. truck safety inspectors take place on-site at a Mexican trucking firm's facilities.

The conference agreement, however, requires that U.S. truck safety inspectors must visit every Mexican trucking firm either when they conduct their initial safety examination or when they conduct a compliance review to determine whether the firm should be granted permanent operating authority in the U.S.

The only exception is granted to the smallest independent operators in Mexico. They will be required to have these same exams conducted at the border.

Even with this exception, it is likely that these smallest of firms will be visited on-site.

That's because the DOT will have to conduct on-site inspections of at least half of all firms and half of all the traffic volume coming into the U.S.

Originally, the administration did not intend to verify many licenses when Mexican truckers crossed the border.

The DOT told us that they would verify the licenses on a random basis—but deliberately avoided defining what was meant by the word ''random.''

That could mean verifying 1 out of every 100 licenses or 1 out of every 1,000 licenses.

Under the conference agreement, the DOT will be required to electronically verify at least one out of every two licenses.

And the actual ratio will be even higher.

That's because the conference agreement requires that border inspectors verify the license of every trucker carrying hazardous materials, and every trucker undergoing a Level I inspection, and then requires that inspectors verify 50 percent of all other vehicles crossing the border.

On the issue of overweight trucks, the administration did not intend to implement any special effort to address overweight vehicles—even though Mexican weight limits far exceed those in the U.S.

The conference agreement, however, requires that—within 1 year of the date of enactment—each and every truck crossing the border at the ten busiest border crossings between the U.S. and Mexico will be weighed.

In fact, the conference agreement prohibits the border from being opened at all—until half of these border crossings have weigh-in-motion systems fully installed.

The administration did not intend to require that Mexican trucks cross the border only where DOT safety inspectors are on duty.

The conference agreement requires that the trucks cross where inspectors are on duty.

It also requires that they enter the U.S. at crossings where there is adequate capacity for the inspectors to conduct meaningful inspections and, if need be, place vehicles out-of-service for safety violations.

The DOT was planning to open the border whether or not a number of critical truck safety rulemakings had been finalized and published.

Some of these rulemakings have been delayed for years, but the DOT planned to open the border anyway.

The conference agreement, however, requires that the Secretary either implement policy directives or publish interim final rules that will immediately govern the behavior of trucking firms—before the border can be opened.

Now let's look at the hauling of hazardous materials across the border. The administration had not planned on implementing any unique requirements for hazardous materials trucks even though they represent a unique and dangerous threat on our highways.

The conference agreement, however, requires that even if other trucks have already been allowed to cross the border no hazardous material trucks will be allowed to enter the U.S. until the governments of the U.S. and Mexico enter into a separate agreement confirming that U.S. and Mexican drivers of these vehicles have been subjected to the same unique requirements.

Finally, concerning the oversight of the inspector general, the administration was planning to open the border without regard to the long list of safety deficiencies that had been cited by the DOT inspector general.

As far as the DOT was concerned, the inspector general could continue to publish as many critical audits as he wanted to—but they were going to open the border on January 1 without regard to whether any of the deficiencies had been addressed.

There wasn't even a process in place to require the Transportation Secretary to acknowledge the findings of the IG.

Under the conference agreement, no trucks may cross the border until the IG has completed another entire audit of the DOT's efforts.

And no trucks may cross the border until the Transportation Secretary has received the IG's findings and has certified in writing, in a manner addressing each of those findings, that the opening of the border does not present an unacceptable risk to our constituents.

So, the conference agreement includes a serious mechanism to hold the Transportation Secretary accountable for his decision to open the border.

And you can be sure that the Transportation Appropriations subcommittee will be holding a hearing with both the Transportation Secretary and the inspector general once the IG has made his findings and the Secretary is poised to issue his certification.

Some observers have suggested that the requirements of the conference agreement are not as restrictive as the measures that passed the Senate.

As I view it, the safety requirements are effectively the same.

The conference agreement gives the administration a degree of flexibility in implementing these safety requirements.

Others have said that the border is likely to open more quickly under the provisions of the conference agreement than under the Senate-passed bill.

That may be true. But I want to remind my colleagues that, it has never been our goal to keep the border closed.

I voted for NAFTA.

I represent a state that is highly-dependent on international trade.

And I believe in the economic benefits that come with lower trade barriers.

Throughout this entire process, my goal—and that of Senator SHELBY—has been to ensure the safety of our highways.

And I am proud that this conference agreement makes great progress for our safety.

I am prepared to yield back all of our time on the bill if there is no one to speak.

I yield back the remainder of our time.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 10) to provide pension reform and for other purposes.

Pending:

Daschle (for Hatch/Baucus) Amendment No. 2170, in the nature of a substitute.

The PRESIDING OFFICER. The assistant majority leader.

Mr. REID. Mr. President, will the Chair indicate how much time is remaining on this matter?

The PRESIDING OFFICER. There remain 14 hours 40 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2202 TO AMENDMENT NO. 2170

Mr. DOMENICI. Mr. President, I call up amendment No. 2202 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 2202 to amendment No. 2170.

(Purpose: To strike the provision related to directed scorekeeping)

Strike section 105(c).

Mr. DOMENICI. Mr. President, I put before the Senate an interesting, simple amendment that we as a Senate should adopt. I hope this amendment is aired for a while. Because Senators have asked me not to, I do not have

any intention to move rapidly. Other Senators are presently indisposed and they might come and perhaps become cosponsors. We will see what we can do.

But I want to make sure the Domenici amendment No. 2202 will not be mistaken for anything other than what it is. This amendment is not a killer amendment with reference to the underlying amendment. The railroad retirement bill will in no way be damaged by this amendment. This amendment is just a very simple recognition that the bill has some language in it that shouldn't be in it. As much as we want to do for the railroad retirees and for all of those who have joined in a rather mass number of Senators who want to see this happen—that is, passage of the bill—they actually should join in saying we want to do this. But we want to be honest with the American people in terms of what the bill costs and how you should score the actual costs against the Treasury.

My amendment would strike what we call directed scorekeeping language out of section 105. This technical language inserted just before the House passed the bill instructs the Office of Management and Budget to deviate—let me go slow here so everybody will get it—from the standard accounting practice when implementing this bill.

The Congressional Budget Office estimates that the provision allowing private investment in equities would increase outlays by $15.3 billion in 2002. That means, if you follow the way we do things in a normal manner pursuant to the rules and guidelines in the law, this bill adds $15.3 billion in increased outlays.

That is a matter of the Congressional Budget Office doing its work and telling us the answer when they are asked the question, How much does the bill cost? What do you put on the books of the United States?

They did their work. Now this bill, at the last minute, deviates from the standard accounting to the extent of $15.3 billion.

If my amendment is agreed to, which strikes the language permitting the deviation and permitting the violation of the Congressional Budget Office, it does nothing, except it puts before us the reality, the truth. It doesn't cause the bill to be any more or any less in conformance with the rules and the Congressional Budget Office. It doesn't make the bill subject to a point of order. It is already subject to that. That has nothing to do with this amendment that I am offering to clarify and make consistent this bill, and make it consistent with what we ought to do in following the language and process and past procedures with reference to the estimated cost.

Once again, the Congressional Budget Office estimates that the provision allowing private investment in equities would increase outlays by $15.3 billion in 2002. It doesn't say you can't do it. It doesn't say you shouldn't do it. It just says if you do it, report it. Just put it in here. Ask the Congressional Budget Office and report their answer. Don't ask the Congressional Budget Office and then say, regardless of their answer, which we are supposed to follow, we are going to determine and declare that we are not going to follow it.

That is called directed scoring—telling them how to score things contrary to the rules, contrary to reality, and contrary to the way we have been doing it.

That is pathetic. We shouldn't do that on any bill.

I repeat that it does not kill the bill. It does not damage the bill. It just reports the reality of the bill for bookkeeping and scorekeeping, which I believe the American people want. They don't want one bill, as good as it is, to have inserted in it just before it passes the House language saying that whatever the reality and the truth is, don't report it this time for this bill. Just report it another way.

All I do is strike that language saying report it that way. It is a very simple idea. It is simple to understand. Just take that language out, return it to language which an ordinary, everyday bill of this type would have had in it and should be expected to be part of what we do.

By preventing the OMB from reporting that expenditure as an outlay, this, in fact, deviates from; it distorts. It makes us look at something and say it isn't what it is. That is a good way to say it. We just put language in saying no matter what it is, it isn't. I am saying no matter what it is, it is, in taking out the language that would do the contrary.

The Government has always recorded any investment from equities to research and development and to education and training as an outlay. The Government should get a good rate of return on all types of investments. In contrast to private sector accounting, we record these investments as an expenditure because the Government operates under cash accounting rules. We certainly cannot use that fact as a reason for changing it. If we are going to choose to change that system of accounting, we shouldn't do it selectively for one bill, no matter how good the bill is, and no matter how much support it has. You ought to change the whole system after a thoughtful evaluation of whether we should continue to use that kind of an approach.

I will not go into the reasons why the Federal Government uses the cash accounting system instead of an accrual accounting system. But I will say that the Federal Government has operated under cash accounting rules since 1789, the first year Congress appropriated $639,000 to cover the expenses of our new government. This isn't the time to change the rules. Obviously, it is neither the time, nor the bill. It is a bill with great support. I am going to support it. It seems to have huge support. We will get it done, but we ought not choose the bill to change the rules of accounting that have existed for our Government since 1789, the first time Congress appropriated $639,000 as our expenditure.

We know, from example, in the private sector that bending the accounting rules creates confusion for the same reason we should not bend the accounting rules of the Federal Government to suit our purpose. Doing so reduces transparency and misleads the public.

If my amendment is not agreed to, this bill will set a troubling precedent for Social Security. Under current accounting practices, both the Government and the privately controlled investments of Social Security funds in stocks are treated consistently. They would increase outlays. If Government-controlled investments were not reported as outlay proposals to collectively invest in Social Security, the assets would have a significant advantage over proposals to create individual accounts. I don't think that should be done. Certainly we wouldn't want to use this as a precedent for that.

That is one of the problems when you violate precedent and pluck something out and say, we are not going to use it now, for whatever reason. We would rather not show the accounting as it is or for real.

Specifically, the proposals to have the Government invest in Social Security assets would be free, whereas proposals to establish individual accounts would cost trillions of dollars.

We understand that is not justified. This bill should not be used as something that gives impetus to that conclusion in a completely different area of huge confusion.

Regardless of whether you support individual accounts for Social Security, as the President's commission is about to propose, or collective investments such as President Clinton proposed, it doesn't make much sense for budget rules to save one policy over another. That is why I think we should be consistent, and do what is right.

Finally, the directed scorekeeping language in the bill creates a 306 budget point of order against the entire Railroad Retirement Act.

The point of order prevents Congress from changing the budget rules unless the proposal is reported from the Budget Committee. My amendment, by dropping the directed scorekeeping language, will ensure that we follow the right accounting proposals.

But understand, I do not make a point of order. There are plenty of votes for this bill. But I think plenty of those votes ought to be used to correct the accounting so there is no black

mark that follows this bill around as to why did we have to do that. We do not have to do that. We just do not have to do it.

At the point it went through the House, maybe it was some way to affect the cost and make it easier to get through because we were not going to charge so much against the surplus of the country. All of those kinds of problems have long gone away. As the occupant of the chair knows, we have been spending the surplus for many months. All of the spending that took place on behalf of the New York incident was out of the surplus there. We began to break the bank, so to speak.

So if there was some reason to manage or distort the real cost, it does not exist any longer. In fact, we should not have done it anyway. But if that was the reason, it is not needed and we ought to fix it. That one change will not kill this bill. It has nothing to do with the life. Whether it is good or not so good, this action just gets rid of something that puts a little black mark or maybe even a big black mark on this bill as seeking some superattention by way of the budget rules that follow this.

That is all I have to say. But I note the presence of the chairman of the Budget Committee in this Chamber. From my standpoint, I am ready to proceed. But I do not want to cut anybody out of either joining me as a cosponsor or speaking.

So with that, I make a parliamentary inquiry. Was there a certain amount of time allocated to the Senator from New Mexico for this amendment?

The PRESIDING OFFICER. Under cloture, the Senator is limited to 1 hour. The Senator has consumed about 14 minutes.

Mr. DOMENICI. I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. REID. Mr. President, Senator INHOFE tried to arrange some time last week to speak when we had lots of time. The time is a little more constrained today, but he has always been so easy to work with, and I ask unanimous consent that following my remarks and those of Senator CONRAD, the Senator from Oklahoma be recognized for up to 40 minutes. Of course, the time would be charged against the 30 hours.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. REID. Mr. President, for me to speak against Senator DOMENICI and Senator CONRAD is difficult. I work very closely with Senator DOMENICI. We have been on the Appropriations Committee working side by side on a number of issues, including the Energy and Water Development Subcommittee, of which I have been chairman and he has been chairman, back and forth. Of course, Senator CONRAD and I came to the Senate together. There is no one I have more respect for than Senator CONRAD and for his integrity and his absolute brilliance. So for me to speak against something on which they agree is difficult. But as much respect as I have for both of these outstanding men, it does not mean they are always right. I respectfully submit that what they are trying to accomplish now is wrong.

Leave it in the bill is basically what my message is. I know I speak for the chairman of the Finance Committee, Senator BAUCUS, and I know I speak for the majority leader, Senator DASCHLE, when I say this.

The House-passed bill includes directed scorekeeping language. This language would require the CBO and OMB to treat the purchase of private sector securities by the new railroad retirement trust as a means of financing rather than as an outlay. OMB sets the official rules right now. Under those rules, the purchase of private sector securities is scored as an outlay just as any other purchase of goods and services would be scored.

However, the issue of how to score the purchase of private sector securities is really a very gray area. Unlike the purchase of goods and services, the purchase of private sector securities does not diminish the financial and budgetary wealth of the Government. So a case could be made that these purchases should not be scored as outlays. In such a case, a means of financing Federal deficits is a technical term for the budgetary category of the purchases. The primary means of financing Federal deficits historically has been Federal borrowing.

Those who would like to continue the current OMB scoring rules would argue that almost all the Federal budget is on a cash basis. From that perspective, the purchase of private sector securities requires cash and should be treated the same as any purchase of goods and services.

I do not have an opinion as to which is the best approach, which is superior. I think they both work. However, from a pragmatic point of view—and that is where I am today—this legislative session is winding down. We are facing a serious time constraint if we are going to be able to enact this important legislation this year.

The railroads have been working and trying to get something such as this done for decades. For once, now we have victory in our grasp. The railroad companies and the unions, which rarely agree on the time of day, have agreed on this package. I think it is a victory that we should not let fall from our grasp.

If this amendment passes, it is gone. Everyone should understand, it is gone. Why? Because this bill will not pass this year.

There are very few days left in the calendar. The House has already passed this legislation, the legislation that is basically before us, that includes directed scorekeeping, by a vote of 384 to 33. It was not a close call in the House: 384 to 33.

If we pass a bill that does not have directed scorekeeping, then we face one of three scenarios. No. 1, we have to go to conference. If this happens, curtains this year, this legislation is all through. No. 2, the House could send back our bill with an amendment in disagreement. In that case, there would not be enough time on the Senate floor to deal with this possibility. No. 3, the House could agree with our bill.

Under two of the three outcomes, the bill would not be enacted this year. We do not know which of the three outcomes will occur, but I have an idea. It is just too risky to proceed in this way. The prudent course of action is to leave the directed scorekeeping language in this bill, the legislation before us.

I urge my colleagues to defeat this amendment.

Mr. President, we have come a long way to arrive at a point where we actually have in our grasp this bill on which we can vote. I hope this amendment, while well intentioned by two fine Senators, both of whom want to protect their budget jurisdiction—I just think, in this instance, they are wrong. I think it would be much better if we went through with this legislation, followed the lead of the House.

The House, as I indicated, passed this bill overwhelmingly. I think if we did that, we would have a lot of happy widows, we would have a lot of happy railroad retirees; of course, we would have a railroad industry that would be much stronger and firmer.

I know in Nevada we have watched the railroads come through our State. We had a merger of Union Pacific coming through the northern part of the State on very shaky ground. But they were able to pull themselves out. We have done a number of remarkable things with the railroad to help them move more traffic because of the merger. One example is that they have come forward and we are building a depressed railroad sector through Reno to make it a much better, quieter program than we have had with railroads in the entire history of railroads coming through Nevada. All this amendment will do is set that back, and then many other things we have been able to accomplish. But of course the thing that really hurts has to do with the railroad retirees.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise today to support the amendment of the Senator from New Mexico, the distinguished ranking member of the Budget Committee. I ask unanimous consent to be added as a cosponsor to his amendment.

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

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. DOMENICI. Mr. President, I thank Senator CONRAD. As chairman of the Budget Committee, it is really welcome that he would join me in this endeavor.

As a matter of fact, I believe by his joining, he makes the case that we are not trying to kill this bill. He has been a staunch advocate. I just told railroad retirees I am voting for the bill. I didn't tell them, nor did I tell the Senator, that I used to work for the railroad. I was a baggage clerk when I was 22. It was a fun job. I didn't work long enough to be part of any of this program. I want everybody to know, I have no interest. It was a great summer job. I became friends with some wonderful railroaders.

I repeat, so that nobody misunderstands the Senator's views, this takes out of the bill some language that is not needed for this bill and that in essence treats this bill in a way that says what is isn't; it is going to cost this much, but it is not going to cost it because we wrote language in the bill saying it isn't.

That is not the way to pass a bill. We don't do that for anybody on anything.

I welcome the Senator's support. I think it is a good way for him to start his chairmanship, saying that he is going to watch the rules carefully and abide by them. I thank the Senator so much for joining me.

(Mrs. CARNAHAN assumed the chair.)

Mr. CONRAD. I thank the Senator. My great-grandfather was a foreman on the railroad. My great-grandparents, when they went on their honeymoon, went on a pushcart for 100 miles on the railroad.

I do strongly favor this bill. I have to answer to my responsibility as chairman of the Budget Committee and as a Member of this body to be accurate with our colleagues as to the scoring of this legislation.

Directed scoring, if we are to be blunt about it, is to say something doesn't cost when we know that it does. I have an obligation to my colleagues to report accurately to them this legislation. I have been a staunch supporter of this bill the entire time it has been before the Senate. It represents an extraordinary effort by the rail companies and their employees and labor to work together to improve the lives of thousands and thousands of rail workers and their families.

I agree this legislation provides an important opportunity to modernize the rail pension program. I have received countless e-mails, phone calls, faxes, and letters from North Dakota rail workers and their spouses who have told me how important this legislation is to them and their families.

Some of my dearest friends and strongest supporters are in favor of this legislation. I am in favor of the legislation. But I have a special responsibility as chairman of the Budget Committee to give an accurate assessment to our colleagues of the cost of legislation that moves through this Chamber. That is an obligation I take seriously.

The directed scorekeeping provision creates the impression that the cost of this legislation in fiscal year 2002 has dropped from $16 billion to $250 million. In reality, with or without directed scorekeeping, the impact on the budget in 2002 is precisely the same. It is not $250 million; it is $16 billion.

That is the reality. That is the fact. With this amendment, the Senator from New Mexico has provided us with a second chance to review the directed scorekeeping provision of this bill. He is right to do so. That is why I have joined him in this effort.

Traditionally, those of us with special responsibility for the budget have vigorously opposed directed scorekeeping because it fundamentally undercuts the entire system of budget controls and budget discipline that is so important to the United States being fiscally prudent and wise. We cannot do our job of being stewards of the finances of this country if we don't report accurately and honestly to our colleagues the cost of legislation.

That is the most fundamental responsibility of any Budget Committee chairman and ranking member. Senator DOMENICI and I are meeting our responsibility by saying to our colleagues the simple fact is, this bill is going to cost $16 billion in fiscal year 2002 no matter what the directed scorekeeping provision says. You can make it up, but it is not true. The fact is, the impact on the federal budget will be $16 billion.

That is a cost for which I am willing to vote and support, but I am not willing to say it is something it is not. That is not, in my view, the appropriate role for any Budget Committee chairman.

It is not just a matter of $16 billion in fiscal year 2002; it has much greater significance than that. If we establish the precedent that through directed scorekeeping we can say a $16 billion expense is really a $250 million expense, what is next? I predict what is next is: When we get to the reform of Social Security, some will say we can simply take a trillion dollars of the Social Security trust fund and move it over into private accounts and say there has been no expenditure. That is the implication of this vote and why it matters. If we say on this bill you can take something that cost $16 billion and, by legislative language, direct the scorekeeping and say it doesn't cost $16 billion, it costs $250 million, then others may try to take a $1 trillion transfer of Social Security money and say it is cost free.

If we start down that path, we will rue the day, if we go down the path of creating fiscal fictions in this Chamber in order to accomplish even the best of intentions.

This is a good bill. It is worthy of support. But the price cannot be, should not be, must not be that we say to the American people that a bill that costs $16 billion only costs $250 million. That cannot be the way we do business in the Senate.

If that is the direction we take, I repeat to my colleagues the implication because I believe the next step will be in the Social Security reform debate, that others will try to say: A trillion dollars taken out of the Social Security trust fund and moved into private accounts doesn't cost anything. It is cost free.

That would not be true. That would be totally misleading. The money that is in the Social Security trust fund that has been credited to the Social Security trust fund, to be more accurate, has been credited to that fund to meet current promises, promises already made. We can't take that money and make a new set of promises and use the money that was raised to keep the previous promises. It won't work. We can't use the same money twice.

You can't use the same money twice. That is what will lead us into the swamp of deficits and debt and disastrous economic decline. Make no mistake, what is at stake here is a big deal. This matters. This is not a free vote. I remain committed to this legislation, but I also remain committed to being straight with our colleagues and our countrymen as to the cost of the legislation that is before us.

Our friends in the House included this directed scorekeeping back in July. It was a mistake then; it would be a mistake for us to repeat it here. Those who say, well, this kills the bill —I don't accept that. This legislation has to go back for further action in the House in any event because of the way it has come before us. It has to go back to the House for action in any event.

Let's pass this legislation, but let's do it right and let's do it by being straight with our colleagues and our countrymen as to its cost.

Mr. CARPER. Will the Senator from North Dakota yield?

Mr. CONRAD. I am happy to yield.

Mr. CARPER. I, too, am a strong advocate of this legislation. I have spoken for it in the Chamber and in our caucus meetings as well. As the Senator from North Dakota and the Senator from New Mexico have indicated about their relatives, my grandfather was also on the railroad. My grandmother lived many years on a survivor's pension from his service. Whenever the chairman of the Budget Committee and the ranking member on the

Budget Committee stand to endorse an amendment, it gives me pause. I want to make sure in the next several minutes—maybe hours—that we consider this legislation I understand the full ramifications of the amendment or the failure to adopt the amendment.

Let me ask the chairman of the Budget Committee this. When I first learned of the directed scorekeeping in the House of Representatives, which, as he said, is an extraordinary act, I tried to understand why they may have done that. Was it chicanery or was there real logic behind it?

As I studied the issue more, my understanding is if we were not on a cash basis of accounting, but an accrual basis, this probably would not be an issue. Most States used to be on a cash basis of accounting. The majority of States now use the accrual basis, and most States direct the retirement funds into U.S. Treasury obligations. Today, it is a whole array of investments, including equities, or stocks, bonds, and the kinds of things envisioned here under this legislation. There are, as we know, tier 1 benefits under the railroad and tier 2.

This is my question: The tier 1 benefits mirror Social Security benefits. Tier 2 are more private sector benefits. The moneys that go into those tier 2 funds for payout come from the railroad companies themselves—from the tax assessed on them—and also a payment by the railroad employees themselves. My understanding is that those monies that go into that retirement fund, paid into by the railroad companies and by the employees through the payroll deduction—those monies in the future will be invested not in U.S. Treasury obligations, but in a wide variety of investment options. But because of the peculiarity of our accounting rules, because those monies will now be not spent for roads or any other purpose, and not for space exploration, they will still be invested in the same pension benefits, but because of our accounting rules, those monies—simply by saying you can now invest those pension monies, the trust fund monies, in non-Treasury obligations triggers a $15 billion outlay. Is that what this is all about? I know that is a long question, but let me lay that question at the feet of our Budget Committee chairman.

Mr. CONRAD. I am happy to respond. First of all, we use a cash method of accounting for the Federal budget. We do not use an accrual system. You can't mix the two or you start misleading people. That is No. 1.

No. 2, the Senator's question sounds as though it is prospective in nature; as though simply going forward, Tier II revenues would not be invested in Treasurys. That is not the case in this bill. In this bill, CBO estimates that approximately $16 billion currently invested in Treasurys by the Federal Government would be sold and instead invested through an investment trust in private-sector assets. Again, the amount is $16 billion and they would be free to invest it in other ways. I support that.

But we have to be straight with people. It costs $16 billion to the Federal Government in the fiscal year 2002 under the accounting rules that apply to every program of the Federal Government. It doesn't cost $250 million; it costs $16 billion. The money moves out of Government Treasuries and moves into a railroad investment trust, with the ability under a board, to invest those moneys in higher rate of return assets. I support that basic notion.

But the hard fact is that it costs the Federal Government $16 billion. It means the fact is the Federal Government will have to borrow $16 billion more in fiscal year 2002 than it was otherwise going to borrow.

Mr. CARPER. If the Senator will continue to yield, I have two glasses of water here. We will say one is the railroad pension fund as it currently exists, and it is full of U.S. Treasury obligations. There is another glass here and we will pretend it is empty for our purposes. What I think we are talking about doing is taking some of the moneys invested in these Treasury obligations in this one pension fund and, presumably, the railroad retirement fund would have to sell those obligations and then use the money from the sale of those obligations to put in their new pension fund. When they sell those, they are going to sell them to somebody—individuals, funds, banks, corporations. It is difficult for me to understand how that transaction I have just described should cost the Treasury $16 billion. A lot of us are struggling on this one.

Mr. CONRAD. Let me say it as simply as I can state it. The reason it costs the U.S. Treasury $16 billion is because the money moves out of U.S. Government Treasury and moves over to the control of a board that is run by private sector representatives to be invested in non-governmental assets. That is about as easy as I can make it.

The fact is that the Federal Government is going to have to borrow, as a result of that transaction, not $250 million more, but $16 billion more in 2002. For us to have our colleagues say ''but it really doesn't mean that'' is not accurate and it is not factual. To say to our colleagues, by direct scorekeeping, by legislative fiat, that it won't cost $16 billion, that it won't mean the Federal Government has to borrow $16 billion more in 2002, that it is only going to cost $250 million more, is just not the truth. I don't know how more direct I can be.

Mr. CARPER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that following the statement of Senator INHOFE, Senator STABENOW be recognized for up to 15 minutes, and the time be charged against the 30 hours.

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

Under the previous order, the Senator from Oklahoma is recognized for 40 minutes.

AN ABSOLUTE VICTORY

Mr. INHOFE. I thank the Chair. First, I say to the leadership how much I appreciate the fact you are allowing me to bust in on a different subject. I think it is very significant at this time because something happened yesterday that I think makes it worthwhile to talk about this and maybe to do so at some length.

Willie George was right. Lest some of you do not know who Willie George is, some people consider Willie George a preacher, but he is also a very able historian. As I listened to him and added some perspectives on what the attack on America was all about, I realized the inside-Washington mentality is sometimes and often flawed and that mentality that comes from Oklahoma reflects more of real America.

The Apostle Paul gave us our marching orders in Ephesians 6, verses 10, 11, and 12. He said:

> Finally, my brethren, be strong in the Lord, and in the power of his might. Put on the whole armor of God, that you may be able to stand against the wiles of the devil. For we wrestling is not against flesh and blood, but against the principalities, against the powers, against the rulers of this darkness—

About which we are talking—

> against the spiritual hosts of wickedness in high places.

Make no mistake about it. This war is first and foremost a spiritual war. It is not a political war. It has never been a political war. It is not about politics. It is a spiritual war. It has its roots in spiritual conflict. It is a war to be fought to destroy the very fabric of our society and the very things for which we stand.

Many of the wars in history have been fought because of human desire or greed, to have that of a neighboring country—to have mineral deposits, to have what some other country has. But this war is of a different nature.

It is not just simple greed that motivated these people to kill. This war has been launched against the United States of America. It is a spiritual attack. It is an attack that was created in the mind and heart of Satan. It is a demonically inspired attack. It is not just the selfish ambitions of an egotistical leader. It is not just someone wanting to hold on to power. This is nothing more than a satanically inspired attack against America created by demonic powers through the perverted minds of terrorists.

One may ask: What is it about our Nation that makes them hate us so much? Three things. First, in our country, we have the freedom and the right to choose the kind of worship we want. I am a born-again Christian. I have accepted Jesus Christ as my virtual Lord and Savior. I believe it is through Him that we will reach the Father. I believe every American has a right to choose whether or not to believe that.

Some people have the notion that if you are a Christian who believes in the Bible, you are totally intolerant; you do not allow other people to have a choice. Nothing could be further from the truth.

In nations of this world where Christianity is the dominant way of worship, we also find Jewish synagogues, Islamic mosques; we find freedom of worship. But we will not find the same kinds of freedom in the militant Islamic nations of this world. They do not allow Christian churches and Jewish synagogues to operate freely. They do not allow people the freedom of choice. In Sudan, they sell Christians into slavery.

So one of the reasons America is hated so much is that we have allowed people through the years to choose what they are going to do. It is choice.

The second reason we are hated is that we have opened the door for people to achieve their God-given place on this Earth. We have not restrained people. We have allowed people freedom of expression, the freedom to pursue dreams, the freedom to pursue goals. This is not true around the world.

Freedom did not come cheap. One of my memories that I consider an advantage for me and that I hold over many others is when I first started my education in first grade, it was in a country schoolhouse. Not many people here know what they are. They are eight grades in one room out in the country. It was called Hazel Dell. In fact, I remember three brothers who rode on a workhorse to school every morning.

We had a different sense of history at that time. I remember so well reading and learning history as a very young child in that environment. Keep in mind, that was the environment at the beginning of World War II when we had a sense of patriotism that is comparable to today.

I remember my teacher said the Pilgrims did not come to this country for adventure; they did not come for excitement; they were not adventurous people. They came to this country to escape tyranny, to pursue freedoms—freedom of religion and economic freedom. Half of them died the first year. They knew it was going to happen. It was worth it to get these freedoms.

They had freedom of religion and economic freedom. Each was given a piece of property to do with as they wanted, and he could work his land and reap the benefits of this property. And he prospered mightily, so mightily that in one of his letters back to England, Smith said: Now one farmer can grow 10 times as much corn as the previous farmers could.

They were prospering so mightily. I normally tell young people when you have a good thing going, quite often someone is going to try to take it away from you. That is exactly what happened. The British came across the sea. They wanted in on this prosperity, and they started imposing laws, rules, and regulations so that the trapper on the frontier could not make a hat of the pelt he caught. He had to sell it to British merchants at British prices to be shipped to Great Britain on English ships to be made into a hat by English laborers to be shipped back and sold to the trapper, who caught it in the first place, at English prices. Guess what happened. God bless him, the trapper kept right on making his own hats.

That was treason in those days. So they sent this great army to this country, the greatest army in the world at that time, to stop these things from occurring. They started marching up toward Lexington and Concord.

I remember so well sitting in that little one-room schoolhouse and having this vision of what it was really like. Farmers and trappers and frontiersmen were up there. They were not well educated, but they were ready to stop this resistance, the greatest army on the face of this Earth. Most of them could not read or write. As the saying goes, they did not know their right foot from their left foot, so they would put a tuft of hay in one boot and a tuft of straw in the other boot and marched to the cadence of ''hay foot, straw foot.''

While they were not greatly educated, they knew freedom, and they were going to keep that freedom. As they stood there knowing they were signing their death warrants, those soldiers, listening to the thundering cadence of the largest army in the world going towards Lexington and Concord, waited until they saw the whites of their eyes and fired the shot heard round the world, not knowing at that very moment a tall redhead stood in the House of Burgess and made a speech for them, made a speech for us today:

> They tell us, sir, that we are weak; unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance by lying supinely on our backs and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak if we make proper use of those means which the God of nature hath placed in our power. The millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us.

This is critical.

> Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles with us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave . . . Gentlemen may cry, Peace, Peace—but there is no peace . . . Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God . . . but as for me, give me liberty or give me death.

He got both.

These freedoms are not found in every nation. America is a great nation because we have magnified the rights of individuals, protected the rights of individuals in our culture. We are careful to allow people to have expression in our society, and we are hated for it.

The third reason we are hated is because we are a nation of laws. We are a people ruled by laws. Lest one thinks that is common, do a careful study of the history of the world. Most of the world's countries do not have a 200-year-old Constitution. They are ruled by dictators. They are ruled by the whims of those leaders or by political parties as they change. The rule of law is what makes civilization possible. The rule of law is what makes an orderly society work. If there is no rule of law, the strongest, toughest bully is the one who runs the country.

America is a country of law and order because of the philosophies of the people who founded this Nation. They believed in the rule of law because of what they knew from the Bible. Our Constitution and the constitutions of most of the governments in the world are similar and are indeed based upon the Ten Commandments. Our fathers knew that the Ten Commandments and the laws of God were a basis for all laws. They understood the concepts of absolute right and absolute wrong. There were not many who believed in what we today call situational ethics where things change according to our needs. They believed in absolute right and absolute wrong. America was founded on those principles. That is a reason we are hated so much as a nation. We are hated because of the fact we are a beacon of light, a beacon of freedom all the way around the world. We know contemporarily what this means.

One of the greatest speeches of all times was ''A Rendezvous with Destiny'' made by Ronald Reagan before he was into politics. He talked about the atrocities committed in Castro's Communist Cuba and about the little boat that escaped and washed up on the southern shores of Florida. When the boat came up, a man who escaped talked about what was happening in Communist Cuba. When he was through talking about the atrocities, a woman said: I guess we in this country don't know how lucky we are.

He said: No, no. It is how lucky we are because we had a place to escape to.

What he was saying was, we were that beacon of freedom. Many, including the Senator sitting to my right, will remember 15 years ago when the Communists, then the Soviet Union, were trying to get a foothold in Nicaragua and the freedom fighters were fighting for their freedom. I remember going down there, watching them fight against impossible odds. There is no way they could win, by normal concept. They were fighting.

There was a hospital tent in Nicaragua. It was half the size of this Senate Chamber. I remember so well, this is where the freedom fighters from Nicaragua would come in and get taken care of medically. There was an operating table in the middle of this giant tent. All they did was amputations. The problem was, of course, the mines. They had the beds of all the patients around the perimeter of this hospital tent.

I went around and talked to the individuals. The average age of the fighter in Nicaragua at that time was 19 years old. All the older ones were either maimed or killed. I used to be a pilot in Mexico and I communicate well.

I asked each one: Why is it you are doing this against impossible odds? Why are you doing this? Why are you fighting?

I got to the last bed. Her name was Maria Gonzalez. I asked her that question. She was 18 years old, weighed 90 pounds, and this was her third trip back to the hospital tent. They amputated her leg that morning. Blood was coming through the bandages. That little girl said: We are fighting because they have taken everything we have, our farms, our houses, all that we have. Surely you in the United States don't have to ask that question because you had to fight for your freedoms against the same odds that we are doing today. And with God's help, we will win, as you, with God's help, won.

That little girl didn't know whether our Revolution was fought 25 years ago or 150 years ago. But she was brilliant in her knowledge of freedom. We were the beacon of hope. We were the beacon of freedom.

Do you know the outcome? We are hated because we are the beacon of freedom for the rest of the world. We are hated because in America we have freedom of choice and freedom of worship, we have freedom of expression, and we are a nation of laws.

Now, why was America attacked on September 11? Why did they single us out? America was attacked because of our system of values. It is a spiritual war. It is not just because we are Israel's best friend. We are Israel's best friend in the world because of the character we have as a nation. We came under attack and we are Israel's best friend.

One of the reasons God has blessed our country is because we have honored his people. Genesis 12:3 says: I will bless them who bless you. I will curse him who curses you. This is God talking about Israel.

Madam President, on the table where you sit is a Bible. You can look it up. He said: I will bless them who bless you. I will curse him who curses you. God is talking about Israel.

One of the reasons America has been blessed abundantly over the years is because we as a society have opened our doors to Jewish people. Jewish people have been blessed in the United States of America. When the tiny State of Israel was founded in 1948, we stood in the beginning with Israel. We were the first country to stand up for Israel. Because we took a stand, other nations in the world followed after very quickly. The United States made it possible for there to be an Israel. We stood with Israel again and again and again in its fight to survive.

Make no mistake. It is not just because of our support of Israel. It is what we believe as a nation that caused us to come under attack.

Recently in the city of Durban, South Africa, there was a conference called the World Conference on Racism. African Christians are being slaughtered by the thousands today by Islamic fundamentalists in Sudan. You didn't hear a lot about that in the reports of this conference; you didn't hear about racism in South Africa. I have a mission in West Africa and have become pretty familiar with some of the atrocities and the ethnic cleansing going on in the world today.

I can remember standing at this podium when we were under a different President. He was trying to get us to send troops into Kosovo, and used in his arguments in Kosovo all the ethnic cleansing and the difficulty going on. I said at that time, for every one person who is killed, who is ethnically cleansed in Kosovo, on any given day there are over 100 who are killed and ethnically cleansed in West Africa alone. Do we hear about that? No, we didn't hear about that at the Conference on Racism. What you heard was how the nations of the world came together and decided all the attention should be focused on the tensions in the Middle East. They were appeasing the terrorists.

Israel is under attack in the Middle East because it is the only true democracy that exists in the Middle East. There are more than 20 Arab nations in north Africa and in the Middle East. Virtually every Arab nation is run by either a king or a dictator. Israel is the only true democracy that exists in the Middle East.

Madam President, did you know if you are an Arab and have an Israeli citizenship, you can vote in the country of Israel? Did you know the Arabs have parties in the Knesset, the Congress of Israel? Israel is the only true democracy that exists in the Middle East. It has a Western form of government based on the laws we see in the Bible. The laws of God that our country is based on are the same laws from which Israel gets its law. It represents the laws of God. That is the reason it is under attack.

We ought to be Israel's best friend. If we cannot stand for Israel today, can we ever again be counted on as a beacon of hope, a beacon of freedom for oppressed nations? You may ask what does this have to do with the attack on America? We are under attack because of our character and because we have supported the tiny little nation in the Middle East. That is why we are under attack. If we don't stand for this tiny country today, when do we start standing for tiny little countries in the world that are right?

Yasser Arafat and others do not recognize Israel's right to the land. They don't recognize Israel's right to exist.

I will discuss seven things I consider to be indisputable and incontrovertible evidence and grounds to Israel's right to the land. You have heard this before, but it has never been in the RECORD. Most know this. We are going to be hit by skeptics who are going to say we are being attacked all because of our support for Israel, and if we get out of the Middle East all of the problems will go away. That is not so. It is not true. If we withdraw, it will come to our door and will not go away. I have some observations to make about that in just a minute, but first the seven reasons that Israel has the right to the land.

Israel has a right to the land because of all the archeological evidence. This is reason No. 1. It all supports it. Every time there is a dig in Israel, it does nothing but support the fact that Israelis have had a presence there for 3,000 years. They have been there for a long time. The coins, the cities, the pottery, the culture—there are other people, groups that are there, but there is no mistaking the fact that Israelis have been present in that land for 3,000 years.

It predates any claims that other peoples in the regions may have. The ancient Philistines are extinct. Many other ancient peoples are extinct. They do not have the unbroken line to this date that the Israelis have.

Even the Egyptians of today are not racial Egyptians of 2,000, 3,000 years ago. They are primarily an Arab people. The land is called Egypt but they are not the same racial and ethnic stock as the old Egyptians of the ancient world. The Israelis are in fact descended from the original Israelites. The first proof, then, is the archeology.

The second proof of Israel's right to the land is the historic right. History supports it totally and completely. We know there has been an Israel up until

the time of the Roman Empire. The Romans conquered the land. Israel had no homeland, although Jews were allowed to live there. They were driven from the land in two dispersions: One was in 70 A.D. and the other was in 135 A.D. But there was always a Jewish presence in the land.

The Turks, who took over about 700 years ago and ruled the land up until about World War I, had control. Then the land was conquered by the British. The Turks entered World War I on the side of Germany. The British knew they had to do something to punish Turkey and also to break up that empire that was going to be a part of the whole effort of Germany in World War I, so the British sent troops against the Turks in the Holy Land.

One of the generals who was leading the British armies was a man named Allenby. Allenby was a Bible-believing Christian. He carried a Bible with him everywhere he went and he knew the significance of Jerusalem.

The night before the attack against Jerusalem to drive out the Turks, Allenby prayed that God would allow him to capture the city without doing damage to the holy places.

That day, Allenby sent World War I biplanes over the city of Jerusalem to do a reconnaissance mission. You have to understand that the Turks had at that time never seen an airplane. So there they were, flying around. They looked in the sky and saw these fascinating inventions and did not know what they were and they were terrified by them. Then they were told that they were being opposed by a man named Allenby the next day, which in their language means ''man sent from God'' or ''prophet from God.'' They dared not fight against a prophet from God, so the next morning when Allenby went to take Jerusalem, he went in and captured it without firing a single shot.

The British Government was grateful to Jewish people around the world and particularly to one Jewish chemist who helped them with the manufacture of niter. Niter is an ingredient which goes into nitroglycerin, necessary to the war effort. They were getting dangerously low of niter in England at that time, so the chemist, who was called Weitzman, discovered a way to make it from materials that existed in England.

It was coming from the new world over there, the niter was. But the German U-boats were shooting them down so it was all at the bottom of the Atlantic Ocean. When Weitzman discovered a way to make it from materials that existed in England, it saved the British war effort. Out of gratitude to this Jew and out of gratitude to Jewish bankers and financiers and others who lent financial support, England said we are going to set aside a homeland in the Middle East for the Jewish people. And that is history.

The homeland that Britain said it would set aside consisted of all of what is now Israel and all of what was then the nation of Jordan, the whole thing. That was what Britain promised to give the Jews in 1917.

In the beginning, there was some Arab support for this. There was not a huge Arab population in the land at that time and there is a reason for that. The land was not able to sustain a large population of people. It just didn't have the development it needed to handle all those people, and the land wasn't really wanted by anybody.

I want you to listen to Mark Twain. Have you ever read ''Huckleberry Finn'' or ''Tom Sawyer''? Mark Twain—Samuel Clemens—took a tour of Palestine in 1867. This is how he described it. We are talking about Israel. He said:

> A desolate country whose soil is rich enough but is given over wholly to weeds. A silent, mournful expanse. We never saw a human being on the whole route. There was hardly a tree or a shrub anywhere. Even the olive and the cactus, those fast friends of a worthless soil, had almost deserted the country.

Where was this great Palestinian nation? It didn't exist. It wasn't there. The Palestinians weren't there. Palestine was a region named by the Romans, but at the time it was under the control of Turkey and there was no large mass of people there because the land would not support them.

This is the report of the Palestinian Royal Commission, created by the British. It quotes an account of the conditions on the coastal plain, along the Mediterranean Sea in 1913. This is the Palestinian Royal Commission. They said:

> The road leading from Gaza to the north was only a summer track, suitable for transport by camels or carts. No orange groves, orchards or vineyards were to be seen until one reached the Yavnev village. Houses were mud. Schools did not exist. The western part toward the sea was almost a desert. The villages in this area were few and thinly populated. Many villages were deserted by their inhabitants.

The French author Voltaire described Palestine as:

> A hopeless, dreary place.

In short, under the Turks the land suffered from neglect and low population, and that is a historical fact. The nation became populated with both Jews and Arabs because the land came to prosper when Jews came back and began to reclaim it. Historically, they began to reclaim it. If there had never been any archeological evidence at all to support the rights of the Israelis to the territory, it is also important to recognize that other nations in the area have no longstanding claim to the country either.

Madam President, did you know that Saudi Arabia was not created until 1913? Lebanon until 1920? Iraq didn't exist as a nation until 1932; Syria until 1941; the borders of Jordan were established in 1946, and Kuwait in 1961.

Any of these nations who would say that Israel is only a recent arrival would have to deny their own rights as recent arrivals as well. They did not exist as countries. They were all under the control of the Turks. So, historically, Israel gained its independence in 1948.

The third reason I believe the land belongs to Israel is because of the practical value of the Israelis being there. Israel today is a modern marvel of agriculture. Israel is able to bring more food out of a desert environment than any other country in the world. The Arab nations ought to make Israel their friend and import technology from Israel that would allow all the Middle East, not just Israel, to become an exporter of food. Israel has unarguable success in its agriculture.

The fourth reason I believe Israel has the right to the land is on the grounds of humanitarian concern. You see, there were 6 million Jews slaughtered in Europe in World War II. The persecution against the Jews has been very strong in Russia since the advent of communism. It was against them even before then under the Czars.

These people have a right to their homeland. If we are not going to allow them a homeland in the Middle East, then where? What other nation on Earth is going to cede territory? To give up land?

They are not asking for a great deal. You know the whole nation of Israel would fit into my State of Oklahoma seven times. So on humanitarian grounds alone, Israel ought to have the land.

The fifth reason Israel ought to have the land is because she is a strategic ally to the United States. Whether we realize it or not, Israel is a detriment, an impediment to certain groups hostile to democracies and hostile to those things that we believe in, hostile to the very things that make us the greatest nation in the history of the world. They have kept them from taking complete control of the Middle East. If it were not for Israel, they would overrun the region. They are our strategic ally.

Madam President, it is good to know that we have a friend in the Middle East that we can count on. They vote with us in the United Nations more than England. They vote with us more than Canada, more than France, more than Germany, more than any other country in the world.

The sixth reason is that Israel is a roadblock to terrorism. The war we are now facing is not against a sovereign nation. It is a group of terrorists who are very fluid, moving from one country to another. They are almost invisible. That is who we are fighting against. We need every ally we can get. If we do not stop terrorism in the Middle East, it will be on our shores. We

have said this and said this and said this.

One of the reasons I believe the spiritual door was opened for an attack against the United States of America is because the policy of our Government has been to ask Israelis and demand with pressure that they not retaliate in a significant way against the terrorist strikes that have been launched against them, the most recent one just 2 days ago.

Since its independence in 1948, Israel has fought four wars: the war in 1948–1949; the war in 1956, the Sinai campaign; the Six-Day War in 1967; and in 1973 the Yom Kippur War, the holiest day of the year, with Egypt and Syria.

You have to understand that in all four cases, Israel was attacked. Some people may argue that wasn't true because they went in first in the war of 1956. But they knew at that time that Egypt was building a huge military to become the aggressor. Israel, in fact, was not the aggressor and has not been the aggressor in any of the four wars.

Also, they won all four wars against impossible odds. They are great warriors. They consider a level playing field being outnumbered two to one.

There were 39 Scud missiles that landed on Israeli soil during the gulf war. Our President asked Israel not to respond. In order to have the Arab nations on board, we asked Israel not even to participate in the war. They showed tremendous restraint and did not. And now we've asked them to stand back and not do anything over these last several attacks.

We have criticized them. We have criticized them in our media. Local people in television and radio offer criticisms of Israel not knowing the true issues. We need to be informed.

I was so thrilled when I heard a reporter pose a question to our Secretary of State, Colin Powell. He said, ''Mr. Powell, the United States has advocated a policy of restraint in the Middle East. We have discouraged Israel from retaliation again and again, and again because we've said it leads to continued escalation—that it escalates the violence.'' He said, ''Are we going to follow that preaching ourselves?''

Mr. Powell indicated that we would strike back. In other words, we can tell Israel not to do it, but when it hits us we are going to do something. That is one of the reasons I believe the door was opened. Because we have held back our tiny little friend. We have not allowed them to go to the heart of the problem. The heart of the problem—that is where we are going now.

But all that changed yesterday when the Israelis went into the Gaza with gunships and into the West Bank with F–16s. With the exception of last May, the Israelis had not used F–16s since the 1967 7-Day War. And I am so proud of them because we have to stop terrorism. It is not going to go away. If Israel were driven into the sea tomorrow, if every Jew in the Middle East were killed, terrorism would not end. You know that in your heart. Terrorism would continue.

It is not just a matter of Israel in the Middle East. It is the heart of the very people who are perpetrating this stuff. Should they be successful in overrunning Israel—they won't be—but should they be, it would not be enough. They will never be satisfied.

No. 7, I believe very strongly that we ought to support Israel; that it has a right to the land. This is the most important reason: Because God said so. As I said a minute ago, look it up in the book of Genesis.

In Genesis 13:14–17, the Bible says:

> The Lord said to Abram, ''Lift up now your eyes, and look from the place where you are northward, and southward, and eastward and westward: for all the land which you see, to you will I give it, and to your seed forever. . . . Arise, walk through the land in the length of it and in the breadth of it; for I will give it to thee.''

That is God talking.

The Bible says that Abram removed his tent, and came and dwelt in the plain of Mamre, which is in Hebron, and built there an altar before the Lord. Hebron is in the West Bank. It is at this place where God appeared to Abram and said, ''I am giving you this land,''—the West Bank.

This is not a political battle at all. It is a contest over whether or not the word of God is true. The seven reasons here, I am convinced, clearly establish that Israel has a right to the land.

Eight years ago on the lawn of the White House, Yitzhak Rabin shook hands with PLO Chairman, Yasser Arafat. It was a historic occasion. It was a tragic occasion.

At that time, the official policy of the Government of Israel began to be, ''Let us appease the terrorists. Let us begin to trade the land for peace.'' This process has continued unabated up until last year. Here in our own Nation, at Camp David, in the summer of 2000, then Prime Minister of Israel, Ehud Barak, offered the most generous concessions to Yasser Arafat that had ever been laid on the table.

He offered him more than 90 percent of all the West Bank territory; sovereign control of it. There were some parts he did not want to offer, but in exchange for that he said he would give up land in Israel proper that the PLO was not asking for.

And he also did the unthinkable. He even spoke of dividing Jerusalem and allowing the Palestinians to have their capital there in the East. Yasser Arafat stormed out of the meeting.

Why did he storm out of the meeting? Everything he has said he has wanted all of these years was put into his hand. Why did he storm out of the meeting?

A couple of months later, there began to be riots, terrorism. The riots began when, now Prime Minister, Ariel Sharon, went to the Temple Mount. And this was used as the thing that lit the fire and that caused the explosion.

Did you know that Sharon did not go unannounced and that he contacted the Islamic authorities before he went and secured their permission and had permission to be there? It was no surprise. The response was very carefully calculated. They knew the world would not pay attention to the details.

They would portray this in the Arab world as an attack upon the holy mosque. They would portray it as an attack upon that mosque and use it as an excuse to riot. Over the last eight years, during this time of the peace process, where the Israeli public has pressured its leaders to give up land for peace because they're tired of fighting, there has been increased terror.

In fact, it has been greater in the last eight years than any other time in Israel's history. Showing restraint and giving in has not produced any kind of peace. It is so much so, that today the leftist peace movement in Israel does not exist because the people feel they were deceived.

They did offer a hand of peace, and it was not taken. That is why the politics of Israel have changed drastically over the past 12 months. The Israelis have come to see that, ''No matter what we do, these people do not want to deal with us . . . They want to destroy us.'' that is why even yet today the stationery of the PLO still has upon it the map of the entire state of Israel, not just the tiny little part they call the West Bank that they want. They want it all.

The unwavering loyalty we have received from our only consistent friend in the Middle East has got to be respected and appreciated by us. No longer should foreign policy in the Middle East be one of appeasement. As Hiram Mann said, ''No man survives when freedom fails. The best men rot in filthy jails and those who cried 'appease, appease' are hanged by those they tried to please.''

Islamic fundamentalist terrorism has now come to America. We have to use all of our friends, all of our assets, and all of our resources to defeat the satanic evil.

When Patrick Henry said, ''We will not fight our battles alone. There is a just God who reigns over the destiny of nations who will raise up friends who will fight our battles with us,'' he was talking about all our friends, including Israel. And that is what is happening, as of yesterday and I thank God for that. Israel is now in the battle by our side.

That is what is happening. As of yesterday, Israel is now in the battle by our side, and I thank God for that. It is time for our policy of appeasement in the Middle East and appeasement to the terrorists to be over. With our

partners, our victory must and will be absolute victory.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I was to speak next, but I ask unanimous consent that the Senator from Vermont be given 3 minutes and then I have the opportunity to address the Senate after that.

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

The Senator from Vermont.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—CONFERENCE REPORT—Continued

Mr. JEFFORDS. Madam President, as chairman of the Environment and Public Works Committee, which is the lead authorizing committee for many of the programs authorized in the Transportation Equity Act for the 21st Century, I would like to comment on the pending FY 2002 transportation appropriations conference report.

Overall, this is an excellent bill and I intend to vote for it. However, there are a few provisions in the highway portion of this legislation that concern me. TEA–21 represented a carefully negotiated compromise between many different points of view, numerous committees, and the entire House and Senate. One key provision of this compromise legislation was Revenue Aligned Budget Authority—RABA—which ensured that obligations from the Highway Trust Fund would equal revenues into the fund, called TEA–21. TEA–21 determined a carefully negotiated breakdown between the share of RABA funds that would flow to the States through the apportionment formulas and the share that would be competitively distributed through the allocated programs.

Unfortunately, the conference report makes significant changes to the authorization for RABA funding. As it has done in each of the past 2 years, the conference report ignores the authorized distribution of funds for allocated programs under RABA. However, this time, rather than giving the money back to the States through the formulas, this legislation earmarks it for special projects. In addition, the conference report earmarks nearly $500 million that was supposed to be distributed to States through the apportionment formulas. As a result, some States will lose significant amounts of highway funding. In essence, I am very concerned that the appropriators are rewriting the apportionment formulas that were so carefully negotiated in TEA–21.

I do not mean to begrudge the appropriators their prerogative to earmark funding for specific projects. In fact, I am very pleased that some of the funding is set aside for Vermont. However, at some point we do have to draw the line on earmarking when it threatens the very fabric of a carefully negotiated authorization. Unfortunately, this year we may have finally crossed that line.

I look forward to working with the appropriators next year and throughout the reauthorization process to make sure we do a better job of maintaining the integrity of TEA–21 while providing the appropriators flexibility within the guidelines set forth in that law. TEA–21 is a delicately balanced piece of legislation and we must be careful not to upset that balance.

I yield back any time I have.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from Michigan is recognized.

PARTISAN ATTACKS ON THE MAJORITY LEADER

Ms. STABENOW. Mr. President, I rise today to express great concern about recent events and comments that have been made in this Chamber and in the House of Representatives that I believe are not in keeping with the sense of cooperation and bipartisanship that we have seen since September 11.

I remember, after the horrible attacks that we all grieved about and have focused on, on that day of September 11 we joined together on the Capitol steps, and one of our colleagues spontaneously started singing ''God Bless America,'' and we all joined in. And there was a sense of purpose and dedication and commitment as Americans. We all said that while we may have had differences—that is what it is all about in a democracy—we were going to put aside the partisan bickering and the personal assaults and do as our President asked, which was to come together and focus on the needs of the country and to set a new tone.

And then a few weeks later we saw our own majority leader and his staff under another kind of attack, that of anthrax. It came to be an attack on those of us in the Hart Building. And we have now seen other letters. But we have seen our majority leader and his staff operating with incredible dedication, with poise, with tremendous leadership. And the hard work of the staff is continuing.

In fact, all of our staffs are continuing under very difficult circumstances. My own staff operates out of a room in the loading dock at Russell. We see people who are in various situations around this complex of the Capitol, but they continue to serve.

We have done a lot of things. We immediately responded to the attacks with a commitment of resources for New York and for the Pentagon. Yesterday I had the opportunity to visit the Pentagon and see the incredible changes that have taken place since September 11. They are rebuilding the Pentagon with speed that is amazing. Everyone involved in that should be commended for the work they are doing to rebuild this important part of our country and our national security and leadership.

We have responded to that. We have passed airport security bills. Yes, there were differences, but they were worked out to move us forward in terms of airport and airline security.

We have passed economic legislation to support the airlines and passed a sweeping antiterrorism bill that has included the ability to track the money through money laundering provisions—I was pleased to be a part of it in the Banking Committee—as well as upgrading the tools available to law enforcement officials and create the kinds of opportunities to reach out and prevent terrorism as well as to respond to it.

We have continued to move the appropriations bills through this process. We are coming to the conclusion of that in the next couple of weeks. But we are still debating economic recovery, how best to do that. What should be our priorities? Should we, in fact, invest in additional homeland security, beefing up our public health infrastructure, as I hope we will do?

But we are now seeing a constant drone of attacks and comments being made about our Senate majority leader, and I just have to rise today to express deep disappointment and concern about that. We have seen personal comments being made.

Last week the chair of the House Ways and Means Committee made statements about our leader saying there was nothing inside the leader's head on which to focus. There have been implications, with all kinds of derogatory statements that have been made about his leadership and calls for him to step aside because he may be putting forward a different vision or set of values and priorities than someone on the other side—statement after statement, attacks about someone's sincerity and their patriotism and their leadership that are just not helpful and not necessary and, by the way, absolutely absurd.

I found it offensive, when we were listening to the debate on the energy bill on Friday; over and over again it was laced with personal comments, comments that are unbecoming to this body or the body on the other side of the building from which I came as a House Member.

Mrs. BOXER. Will the Senator yield for a question?

Ms. STABENOW. I am happy to yield to my good friend from California.

Mrs. BOXER. First, I want to say how proud I am you took to the floor to bring this to light. I think the

American people are ill-served, as you do, when there are personal attacks on any of our leaders.

Do we have differences? Yes. Should we express those differences? Absolutely. Because, frankly, I have a lot of people who say: What really is the difference between Democrats and Republicans? So the fact that we do not agree on an economic stimulus package is to be expected. The fact that the Democrats are fighting for people who lost their jobs, yes, that is to be expected. The fact that we do not think it is right to give big rebate checks to the largest and most wealthy corporations in America and call it a stimulus, the fact that we do not agree with it is to be expected. The fact that the other side would support that is to be expected. So debating that is fine.

But my colleague has pointed out the viciousness of the attack against the leader of this Senate, TOM DASCHLE, who happens to be one of the kindest, most compassionate people in politics today, is something that cannot go by without a statement.

So I say to my friend, by way of a question, isn't it true that the people of this country expect us to have differences, expect us, on domestic policy, to bring those differences to light, where we are so united on the terrorism front—and we support our President and our Secretary of State; and we are moving together in this fight; there are no differences really, not even around the edges on that. But isn't it a fact that it is fine for us to have these differences, but that these differences should be debated with respect, with fairness, and with dignity?

Ms. STABENOW. I couldn't agree more with my friend from California. I know the families I represent in Michigan are saying to me: We know there are differences in approaches.

That is a reason why they sent me here. And I am of a different party, a different philosophy, on economic questions possibly, or other domestic issues, than those on the other side of the aisle.

They expect us to operate with civility, with respect. I believe and in fact have been telling people in Michigan that there is a new day, that since September 11 we have come together. Yes, we have differences in priorities. We are Americans. Under the Constitution, we have a right, an obligation, to give our point of view. There will be differences.

The personal attacks, the vicious partisan attacks that we have heard recently are just the same old thing we have seen for too long around here. People don't want to see that happening.

I will not question someone's patriotism. I will not say because they differ with my thoughts that there is nothing between their ears or that they are somehow a child who wants a recess and that they are a third grader—whatever the comments were last week. Those kinds of things, frankly, demean all of us. That is my concern.

We have a lot of work to do in this next couple of weeks. People expect us to be focused on their needs and on the needs of the country, the safety of the country, the economy. It is legitimate for us to debate, and we have legitimate differences on how to move the economy forward. I have spoken before in this Chamber about whether it is supply side economics or demand side economics, what is the best mix? That is legitimate. People expect us to do that. We would not be fulfilling our own responsibilities as individual Senators not to come forward with our own ideas. But when it goes on and we hear our leader being attacked for abrogating his responsibility or that every day someone is in pain should be laid at the foot of TOM DASCHLE, that is uncalled for.

I was particularly concerned that there are actually ads being run now attacking our leader in the Senate because of a meeting he had in Mexico with the President of Mexico. Our President has met with Vicente Fox. President Fox has been here. We have welcomed him to the Capitol. They are our neighbors to the south. We have important work to do with them. Certainly part of what happens economically relates to trade and the relationship of our two countries. Yet we have those who have actually paid for partisan ads back in our leader's home State to imply that while a weekend in Mexico might be a nice break from the attacks at hand, in fact, this trip was the wrong thing to do.

I hope we can decide we are going to dedicate the time between now and the end of this session to the serious, vital business at hand and the priorities about which we can disagree. We can disagree about whether or not to drill in Alaska's national wildlife refuge. We can disagree about appropriations priorities.

As someone who has tremendous respect for the leader of this body, I will continue to object when there are personal comments made either about our leader or about the Republican leader or about others on the Senate floor. We have been through too much together since September 11 to turn back to the personal kinds of derogatory statements that were a part of the past. We can do better than that. The American people deserve better. The American people expect us to do better than that.

I call on the President of the United States and the Republican leadership to join us in a vigorous, sincere debate on the priorities for the country, the best way to achieve economic recovery and security, and to do that with the highest and best that is in us. We have a great body and people of wonderful good will on both sides of the aisle in both Houses, as well as the White House. We can do what the people expect us to do. We can do it right. I hope in fact we will get about the business of doing it.

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

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the previously scheduled vote which is scheduled for 12:30 now begin at 12:25 p.m. today.

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

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment, the Domenici amendment No. 2202, be laid aside, to recur at 2:15 p.m. today; that there then be 5 minutes of debate equally divided and controlled in the usual form prior to a vote in relation to the amendment; that there be no second-degree amendments in order, nor to the language proposed to be stricken.

The PRESIDING OFFICER. 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.

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

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—Continued

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the conference report to accompany H.R. 2299.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—97

Akaka	Durbin	McConnell
Allard	Edwards	Mikulski
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Boxer	Graham	Reed
Breaux	Gramm	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Helms	Sessions
Carnahan	Hollings	Shelby
Carper	Hutchinson	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

NAYS—2

Bayh McCain

NOT VOTING—1

Hutchison

The conference report was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:55 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Continued

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

Mr. DOMENICI. Mr. President, parliamentary inquiry: What bill is pending before the Senate? What are the agreements regarding it?

The PRESIDING OFFICER. The pending bill is H.R. 10, to which pending is the Daschle substitute amendment, and an amendment to that is the amendment by the Senator from New Mexico with time for debate evenly divided.

Mr. DOMENICI. Has a vote been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. DOMENICI. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I yield myself the 2½ minutes that I have.

First, I thank the chairman of the Budget Committee for cosponsoring this amendment.

Second, for those—they are numerous in the Senate—who are for the railroad retirement bill, this amendment is not a poison pill for the railroad retirement bill. It does not impact how this bill will be implemented. It simply will make sure the costs are recorded correctly. If you record them correctly rather than direct how they will be scored, you have no impact on whether the bill proceeds.

There is no additional point of order or anything that is an impediment to the bill. It is just that we very seldom, if ever, let a bill go through that costs money where we direct how it should be scored. In this case, the Congressional Budget Office was asked how much it will cost. They told us. Instead of scoring it as we would normally in almost every single bill that affects spending, the House, in the final moments as this bill was getting ready to be passed, put in language saying it shouldn't be scored as it is; we want to score it another way; we direct it not be scored costing $15.3 billion.

All I ask is that provision be stricken. The bill does not have language in it, if the Domenici amendment is agreed to, that directs how you score it, but rather the costs will be scored as estimated by the Congressional Budget Office, which does the same thing for every bill that goes through. Bills do not have language telling you that you must score it differently than you score all the other bills and differently than the Congressional Budget Office indicates.

I reserve whatever time I have and yield the floor.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself a minute and a half.

Mr. President, I have the highest regard for the Senator from New Mexico and also for Senator CONRAD, chairman of the Budget Committee. They do an excellent job in a very difficult situation trying to keep us on track with the budget matters. They are very good Senators. I think people from their home States know that. But I just wanted to state that.

The question here is, does this cost any money? If you assume it does cost money, then there is an argument against directed scorekeeping; that is, there is an argument we do have outlays of maybe $15, $17 billion.

What is it we are addressing? We are addressing that the tier 2 retirement trust fund buys securities; that is, stocks and bonds, rather than buying Treasury bills. The question is, Is buying equity securities the same or different from buying Treasury notes? Under the rules, they are different; that is, one is an outlay and the other is not. So it will be a $15 billion outlay cost under the budget rules if the trust fund invests in securities; that is, equity securities, and no outlay, no cost when the trust fund buys Treasury bonds.

I yield myself an additional 30 seconds.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, technically, the chairman and the Senator from New Mexico are right because that is the way the budget rules have been applied. And this is a gray area. This is not similar to buying a truck or a gold mine or buying another physical asset. Rather, it is buying securities instead of Treasury bonds.

I yield myself an additional 30 seconds.

So I am saying to my friends, the Government is no better off or worse off whatsoever if the trust fund buys securities rather than buying Treasury notes, as all pension funds do. They invest in both Treasury securities as well as equity securities.

So I urge my colleagues to not apply this rule at this time because the Government is no better or worse off; second, if the Senator's amendment were to be adopted, that would be the end of the railroad retirement bill this year because we would have to go back to the House and it would not survive this session or maybe even this Congress.

The PRESIDING OFFICER. The time for the Senator from Montana has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield whatever time I have to Senator CONRAD and thank him for cosponsoring the amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I favor the railroad retirement legislation. I strongly favor it. But I just as strongly support this amendment to knock out directed scorekeeping because I think it misleads our colleagues and our countrymen.

Directed scorekeeping would suggest this legislation costs $250 million this year to implement. That simply is not correct. The cost is $15.6 billion. The hard reality is, that is what the Federal Government is going to have to borrow to fund this legislation, $15.6 billion, not $250 million. We should not say otherwise.

We can support this legislation but be direct and clear with respect to its cost.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to amendment No. 2202. The yeas and nays

have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—40

Allard	Feingold	Murkowski
Bennett	Fitzgerald	Nelson (FL)
Bond	Frist	Nickles
Brownback	Gramm	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Helms	Smith (NH)
Cochran	Inhofe	Stevens
Conrad	Kyl	Thomas
Craig	Levin	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	
Ensign	McConnell	

NAYS—59

Akaka	Dorgan	Lincoln
Allen	Durbin	Mikulski
Baucus	Edwards	Miller
Bayh	Enzi	Murray
Biden	Feinstein	Nelson (NE)
Bingaman	Graham	Reed
Boxer	Hagel	Reid
Breaux	Harkin	Rockefeller
Byrd	Hatch	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Shelby
Carper	Inouye	Smith (OR)
Chafee	Jeffords	Snowe
Cleland	Johnson	Specter
Clinton	Kennedy	Stabenow
Collins	Kerry	Torricelli
Corzine	Kohl	Warner
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden
Dodd	Lieberman	

NOT VOTING—1

Hutchison

The amendment (No. 2202) was rejected.

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

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota.

UNANIMOUS CONSENT REQUEST—H.R. 2716

Mr. WELLSTONE. Mr. President, I do not want to rudely interrupt, but I want to take a minute to make a unanimous consent request.

I see the ranking member of the Veterans' Committee in the Chamber. Shortly, I am going to ask unanimous consent to pass a veterans homeless bill. I will give my colleagues the background.

Three weeks prior to the Thanksgiving recess, I came to the Chamber to try to pass a version of the homeless veterans assistance bill. LANE EVANS has done a lot of work on the House side, so has CHRIS SMITH. It is an excellent bill. We passed this bill out of the Veterans' Committee by a unanimous vote.

I had to come to the Chamber four times asking unanimous consent to pass the legislation. There was an anonymous hold. Again, I say to colleagues, any Senator certainly can object, but this whole business of anonymous holds and no arguments made is unbelievable. So I had to say to my colleagues on the other side that on nonemergency measures, I was putting a hold on everything. My hold was not anonymous. I said on the floor—it is me—I am putting a hold on it.

We have been doing all this work with Democrats and Republicans on the House side. CHRIS SMITH, who is chairman of the Veterans' Committee in the House, has been especially helpful on the bill. We had strong bipartisan support on the Senate side as well. We preconferenced it, and we have unanimity of opinion. This veterans homeless bill is superb legislation.

About a third of the homeless adult males in the country are veterans. Many of them are Vietnam vets. Most struggle with posttraumatic stress syndrome. Most struggle with addiction. They do not get help. It is a scandal.

This legislation is one-stop shopping, places where people can go for community-based care, mental health services, treatment, and assistance in getting affordable housing. My God, we could not do anything that is better.

This legislation came back from the House. I thought we certainly would pass it. I know the chair of the Veterans' Committee in the House, a Republican, has urged colleagues to do so.

Now I understand we have another one of these anonymous holds.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 201, H.R. 2716.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I am sorry that I have to do this, but for the proceedings we are now under, and the fact we have dealt with this issue before—my colleague and I agree on much of what he has just said, but I do believe the way he now attempts to address this issue does not fit where we want to go or where the Senate has acted and the House has acted. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota.

Mr. WELLSTONE. If I had gone further, I would have mentioned also, with the support of Senator ROCKEFELLER and Senator SPECTER, the unanimous consent request was that the amendment be agreed to; the act, as amended, be read a third time and passed; and the motion to reconsider be laid upon the table. Of course, my colleague from Idaho has objected.

I am a bit of an emotional Senator. I say to my good friend from Idaho that unlike the Senator who has put an anonymous hold on this bill, my hold is not anonymous. I have a hold on every single resolution and legislation introduced by my colleagues on the other side of the aisle that is nonemergency—all of it. It is not anonymous. I have just said it here.

I did it for 3 weeks before Thanksgiving. I cannot believe it. Now we are back at this again. It comes over here from the House with the full approval of the chair of the Veterans' Committee—I think unanimous support—support of both Senator ROCKEFELLER, who chairs the Veterans' Committee, and Senator SPECTER.

We have been working on this for several years. It is a scandal. Is it too much to ask that we get this support to veterans? People are giving all these speeches about how great it is that our men and women are serving our country, they are in harm's way, we support them—and we do, I agree—and then when they get out of the Armed Services and they are now veterans, all of a sudden we do not say thank you any longer. You don't think you can find it in your hearts to pass this bill that is so important to this group of veterans in this country? That is my first point.

My second point deals with my indignation, for which I apologize. I am just getting sick and tired of these anonymous holds. I really am. Therefore, I say to my good friend from Idaho, I know this is not his position. He has to come out here by proxy, representing someone who has put an anonymous hold on this bill again, in which case I have a hold on all legislation, all resolutions introduced by my good friends on the other side of the aisle that are nonemergency.

Mr. CRAIG. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to yield. I do not yield the floor. I will be pleased to yield for a question.

Mr. CRAIG. Briefly on this issue.

The PRESIDING OFFICER. Will the Senator yield for a question?

Mr. WELLSTONE. I yield for a question.

Mr. CRAIG. I thank the Senator for yielding. As the Senator from Minnesota knows, a hold is not absolute. It merely is to notify those who have objection to the bill that it might be coming up. I think the Senator has operated appropriately. I am not the person who has the hold on his bill, but it is important we deal with the issue in a timely fashion.

There is much of what the Senator said I agree with. I serve on the Veterans' Committee. I do not say by this action I am not in support of veterans, homeless veterans, those who are in need. I understand where the Senator wants to go. My guess is ultimately we

can get there, and I will work with the Senator to make that happen.

Mr. WELLSTONE. Mr. President, I note my colleague from Texas is in the Chamber. I will only take 1 more minute.

I thank the Senator from Idaho. I take his remarks as being very sincere. Again, the reason I have to do this, I say to my colleague, is because I went through this for 3 weeks prior to Thanksgiving. I came to the Senate Chamber 4, 5 times and never could get approval. The hold was anonymous.

Last week, I tried to get approval, and I have tried to get approval since. It is out there. Everybody knows what the bill is. We have been working on this a long time. There is strong bipartisan support for the bill.

I thank my colleague. I hope we can work it out. In the meantime, before we work it out, I want all of my good friends on the other side to know my hold is not anonymous. I have a hold on all their resolutions, amendments, and bills unless they are emergency.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Continued

AMENDMENT NO. 2196

(Purpose: To ensure that returns on investment are earned prior to any reduction in taxes or increase in benefits.)

Mr. GRAMM. Mr. President, I call up amendment 2196. It is a short amendment, and I would like it read.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2196:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of this Act, any reduction in tax or increase in benefits shall take effect only to the degree that the Secretary of the Treasury finds that the actual earnings of the Railroad Retirement Investment Trust Fund are sufficient to fund them.''.

Mr. GRAMM. Mr. President, we have before us a bill that 74 Members have cosponsored. It is clear from the previous vote where the votes are on this bill. I remind my colleagues that Senator DOMENICI offered an amendment to strike a provision of the bill that was not in any bill that anybody cosponsored, and it was literally a provision that was written into the bill that orders the Office of Management and Budget, which is the budget scoring arm of the executive branch, and the Congressional Budget Office, which is the budget scoring arm of the legislative branch of Government, to falsify the budget by not counting $15 billion that is being taken out of the Treasury.

This is an extraordinary provision. It basically ordered both budgeting arms—the budgeting arm of the executive branch of Government and the budgeting arm of the legislative branch of Government—to simply look the other way and not count $15 billion being taken out of the Treasury.

Senator DOMENICI, with the support of the chairman of the Budget Committee, offered an amendment to strike that language so at least we could have honest bookkeeping. Only 40 Members of the Senate voted for honest bookkeeping. It is clear this railroad retirement bill is wired.

What I wanted to do was to offer an amendment to achieve everything proponents of the bill claim they want to do but to do it in a responsible manner. I don't know where this amendment is going. I expect it is going to get relatively few votes. However, I feel obligated to offer the amendment and people can do what they want to do with it.

Let me try to define the problem. If you read what people are saying in the paper and you talk to all these very nice people in the hallways who are lobbying for this bill, they say: Look, we have over $15 billion in our trust fund. It is our money. It is invested in Government bonds. We don't think it is a good investment—I sure agree with them there. They claim they want to take the money and invest it. Then with the higher interest rates that they can earn, they want to lower taxes and increase benefits.

Now, there is a big problem here. If you look at the actual estimates done by the railroad retirement board, you find under any of the three economic scenarios that the railroad retirement trust fund actuaries look at, this proposal does a lot more than simply invest the money. In fact, as I pointed out on many occasions, what this bill does, in essence, is, over a 17-year period, it literally takes $15 billion of capital out of the trust fund. This chart shows—and this is based on the Railroad Retirement Board's data; this is not my data—under current law the trust fund would build up along the black line entitled ''Trust Fund Under Current Law.''

Let me remind my colleagues that railroad retirement is not fully funded. If we had ERISA laws applied to railroad retirement where you had to have a trust fund sufficient to pay benefits, ERISA would shut railroad retirement down today. This is a program that has no actuarial solvency whatever and it is currently receiving huge Federal taxpayer subsidies today and has always received Federal subsidies.

Basically what is going on, this is what the trust fund balance looks like under current law. Proponents of this bill say it doesn't make sense to invest this in Government bonds; let us invest it in stocks and bonds. We will have more money; we can have a better, more secure retirement program. I agree with that. I am supportive of letting them invest the money. The problem is, that is a smokescreen.

What they are really doing, if you look at what happens to the trust fund before any money is invested, before one single penny is invested, they cut the amount of money the railroads are putting into retirement from 16.1 percent of payroll to 14.75 percent, and it falls to 14.2 percent and then to 13.1 percent. They also lower the retirement age from 62 to 60. At the same time we are raising the retirement age for Social Security, they lower the number of years to be vested from 10 to 5 and they raise benefits. The net result is, even though they assume they will earn 8 percent in real terms, whereas they are only getting 1 percent in real terms from Government bonds the way they are calculating it, even with as high a rate of return, what happens to the trust fund under this bill? What happens to the trust fund is, it goes down because not only are we paying out every penny of earnings from the higher rate of return but we are also paying out principal.

Why doesn't it go broke? The reason it doesn't go broke is, in 2021, the trust fund is now down to about a third of what it would be under current law because you have added all the new benefits. You reduce the amount of money going into the fund so even though you hope to earn a much higher rate of return, you expect all the return and two-thirds of the trust fund.

What happens in 2021 that keeps the system from going bankrupt? The way the bill is written, at that point, the payroll tax, which is down to 13.1 percent of payroll, skyrockets. It goes from 13.1 percent up to 22.1 percent and it does that all in a span of some 5 years.

I ask my colleagues the following question: If railroads are saying they cannot operate profitably while we are putting 16.1 percent of payroll into this retirement program—and remember, they have three retirees for every worker; Social Security has three workers for every retiree; this program is nine times as financially vulnerable as Social Security—if they can't afford to pay 16.1 percent today and they are urging us to let them cut that to 13.1 percent, how can they come in 2025 and afford to pay 22.1 percent of payroll, which is what their numbers require?

Does any Member here not believe that come 2019 the railroads are going to come to Congress and say, we would be required simply to maintain the trust fund at roughly one-fourth of what it would have been without this law, already four-fifths of the trust fund would be good? They are going to run to Congress in 18 years and say, we can't possibly pay a 22.1-percent payroll tax and remain in business. So you are going to either have to have the taxpayer come in and bail out this fund

or you are going to have every railroad in America going broke.

One question that is never answered is, if they can't afford to pay 16.1 percent today, how are they going to afford paying 22.1 percent in 25 years? The point is, they don't ever intend to pay that amount. They are, in essence, asking us, despite all the rhetoric to the contrary, to let them take four-fifths of the trust fund over the next 25 years and divide it up with retirees and then have the Federal Government guarantee the fund so 25 years from now we have one-fourth of the trust fund to pay benefits we have today, and the railroads, which cannot pay 16.1 percent, would be paying 22.1 percent then.

Now, they are going to argue the system would be solvent, they can pay the benefits. But they can only do that with a 22.1-percent payroll tax. Nobody that I know believes that is a tax they can pay. Anyone who looks at this realizes if we adopt this bill, 20 years from now we won't be here, other people will be here, but the railroads will be saying, you are going to have to come and do something because we can't pay these taxes.

Under the best of economic circumstances—and this is data from the railroad retirement board—under the best of circumstances, the bill before the Congress will deplete 53 percent of the trust fund by 2026. Under a more restricted and a more normal economic circumstance, it will deplete 75 percent of the trust fund. And under a pessimistic economic scenario it will bankrupt the trust fund in 20 years. These are not my numbers. These are the numbers of the actuaries of the railroad retirement trust fund.

Now, I understand people want to pass this bill, so I put together an amendment which lets the railroads and the unions do what they want to do, which is take $15 billion out of the trust fund right now and invest it. That will become a private trust fund and they will have it in stocks and bonds and then they will earn on those stocks and bonds. The amendment I have offered says, look, do everything you are claiming to do here but don't reduce the amount of money going into the trust fund from the railroads and don't increase benefits until you have invested the $15 billion, and until you have earned a rate of return on it. And then when you are dealing with the interest and not the principal, you can do whatever you want to do.

What this bill does is take the money out of Government bonds and allow it to be invested, $15 billion of it; then as that money earns interest, you could lower the amount the railroads are paying in, you could lower the retirement age, you could increase benefits, but only to the degree you were doing it with the interest you are earning. You could not spend off the trust fund, thereby putting the taxpayer at greater risk.

I know if anyone defends the proposal, they will say, look, the trust fund does not go broke under the bill. In fact, I guess they would concede it goes down in value under the expected economic scenario by three-fourths. But there is still enough money to pay the benefits. That is only part of the story. The rest of the story is, the only reason there is enough money to pay benefits at this point under the bill is that it is assumed by them that the tax on the railroads to pay for the retirement benefits has risen from 13.1 percent to 22.1 percent.

Does anybody believe the railroads are capable of paying 22.1 percent of the wages of all the railroad retirees into the railroad retirement trust fund? Are we not here today because the railroads say they cannot pay 16.1 percent? The whole logic, when you strip away the window dressing, is they want to lower the amount they are putting into the trust fund from 16.1 to 13.1 percent, to try to help the railroads. They have worked out an agreement to get the unions to support it by saying, in essence, $7.5 billion goes to the railroads and giving $7.5 billion to the union members. But the net result is the trust fund is $15 billion poorer 17 years from today than it is now. Even though you are earning a higher rate of return, because you are taking out huge amounts, you are depleting the trust fund.

All I am trying to do with this amendment is say invest the money and every penny you earn belongs to the railroads and the unions. Forget about the taxpayer. But don't take the principal out, just take the earnings.

Frankly, if this were some kind of reasonable debate, you might say let's take these higher earnings; part should go to the taxpayer because the taxpayer is paying a substantial amount of these benefits, part should go to the railroads, and part should go to the retirees. But I am saying forget that; take the interest, but don't take the principal. That is the essence of the amendment.

I would like to submit the amendment. I hope my colleagues will accept it. I do not understand how it can be prudent public policy to set out a policy which, while claiming to get a higher rate of return, actually reduces the size of the trust fund available to pay benefits, between now and the year 2026, by 75 percent. How can that make sense? How can it be prudent public policy to set out a program which is salvaged only by the willingness of the railroads to pay to 22.1 percent of all wages into a trust fund, when today they claim they cannot afford to pay 16.1 percent? How can that possibly make any sense?

What I am saying is don't deplete the trust fund. But every penny you earn, by investing it, you can give to the railroads and you can give to the retirees. But maintain the assets to protect the taxpayers. That is the proposal. I think it is simple and easy to understand. For those who want investment, it gives you investment. For those who want a better rate of return potentially, it gives you a better rate of return. But what it does not let you do is pillage 75 percent of the trust fund over the next 25 years. That it does not let you do.

That is the essence of the amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Montana.

Mr. BAUCUS. Mr. President, I have been listening carefully to my good friend from Texas, and a lot of what he says is accurate. But he does not, as they say, tell you the whole story. Ultimately, the question comes down to: Are there enough funds in tier 2, in the railroad retirement fund, to pay additional benefits to retirees and spouses and also to decrease the amount of taxes the railroads are now paying? Admittedly, it is a very high rate. That is the question. And can that be done in a fiscally sound manner?

Today the railroad retirement trust fund balance is growing very dramatically. Under current law, the trust fund will have balances this year of about six times the cost of benefits. Through about the year 2020, the ratio never sinks below six. At that point, the year 2020, it continues to decline forever. By the end of 75 years, the balances in the trust fund will equal an unbelievable 53 times the cost of 1 year's benefits.

So the question is, Why all this increase in balances? Isn't there something prudent that can be done about this very large increase in balances? Because under the actuarial estimates it just continues to grow and grow.

And how much of the balance is really necessary? In Social Security, the actuary considers the system to be in actuarial balance in any year the balances of the Social Security trust fund are equal to at least one time the amount of benefits that are paid out in a year. That is Social Security's standards. The actuaries have determined there is at least a 1-to-1 ratio of balances in the Social Security trust fund compared to the costs in that year that have to be paid out. Clearly, today it is much more than one, but the standard, the actuaries say, is 1 to 1. It is not six times or three times, but one.

Today, on the railroad retirement trust fund tier 2, there is a real need, frankly, to do something about the balances in a way that seems reasonable and prudent. There are some changes that should be made. One is the retirement age. Some industries are a lot more hazardous and dangerous than some others. Railroading is certainly

more hazardous and more dangerous than some other industries. The retirement age today in the railroad industry under current law is 62 years. It is only fair that it be reduced to 60 years. In many industries across the Nation, the retirement age is lower than that. It can be 55, and for a hazardous industry such as railroads it makes sense that the retirement age be 60.

In addition, vesting does not have to be a full 10 years as it is today. In many industries, vesting is less than that. It is 5 years.

For survivor benefits, today when a railroader retires, he and his wife will receive 145 percent of wages. If he dies, the widow gets 50 percent. If he were single, it would be 100 percent. So the thought is to at least raise the widow's. If she survives her husband, raise her benefits to 100 percent. It seems to me that the railroader himself would get 100 percent if he retired and is single. It just makes sense.

The current taxes that the company pays are too high. They are much higher than taxes paid in the private arena, and they are higher than what a company would pay in its pension program for its employees.

The idea is to lower the taxes and increase the benefits in a way that is reasonable and prudent so we don't have that huge balance accumulating in the railroad trust fund. I think it is done in a very sound and fair way.

The ultimate question really is, Is the balance of money in the trust fund large enough to accommodate these changes? In the legislation before us, which includes the changes I have indicated, the balances in the trust fund in any year are at least one and two-thirds times greater than the amount needed to pay benefits in that year. That is a higher standard by two-thirds than the standard currently for Social Security. By the end of the 75-year period under this bill, the balances are about 12 times the cost of paying benefits in any 1 year.

Look at the chart of the Senator from Texas. He has that red portion. It continually falls off until about the year 2023. In 2026, his chart stops. It doesn't keep going. If his chart were to keep going, it would have the effect of this chart behind me to my right. It falls down to the levels indicated on the chart of the Senator from Texas, but then it starts right up again at a very high rate.

The low level which is of concern to the Senator from Texas rightfully should be addressed. It is a level which is one and two-thirds times higher than the actuarial balance that the chief actuary at Social Security says must be maintained.

There are provisions in the bill—the Senator from Texas is correct, and the railroad industry agrees and thinks this is just fine—which say if the funds are not what we assume them to be, then the railroader's and employer's taxes begin to rise. But the Senator from Texas says when that happens, and if it happens, Congress is going to just come right in and bail out the railroad industry.

We have not done that, historically. The last five times this Congress generally addressed the question of the financial viability of the railroads and/or the retirement system, in 1974, in 1981, in 1983, and in 1987, Congress did not bail out the railroads. Congress either decreased benefits or raised employer taxes. We encourage the railroad to solve these problems themselves. We have never ''bailed out'' the railroad industry.

Further, this legislation before us has lots of built-in sort of requirements of independent audits, of reports, and looking far ahead as possible to try to anticipate if there is going to be a problem of some kind or another.

Specifically, the legislation before us requires the trust fund to have an independent, qualified public accountant to audit the trust. The trust fund then must submit a report to Congress which includes a report based on the audit. The report supplied to Congress must contain financial statements of operations and cashflow.

Moreover, two financial reports required in current law would continue. The chief actuary for the Railroad Retirement Board must also do a major update of actuarial evaluations every 4 years but with annual updates every year by the chief actuary of the Railroad Retirement Board. The Railroad Retirement Board will report annually to the Congress and to the President as to the state of the system. Every year we will get updates.

The lines on the chart of the Senator from Texas as well as these are the intermediate assumptions; that is, there is a pessimistic assumption, there is an intermediate assumption, and there is an optimistic assumption. These are the intermediate assumptions on both of these charts.

What basically drives these assumptions? What is the biggest unknown that we have to look at?

It is essentially the level of employment in the railroad industry. When the level of employment in the railroad industry declines significantly, obviously, as is in the case of Social Security, there are fewer people paying into the trust fund compared with the number of people drawing benefits from the trust fund.

This is an industry which is almost the opposite of Social Security. For Social Security, there are about three workers for every one person paying in. In this industry, it is about one to three. It is a mature industry. It is not a young industry. It is an industry with fewer employees and more retirees.

The question is, How many more fewer employees will there be to accommodate the number of retirees?

I would like you to look at this chart behind me. It indicates that we need not worry about a cut in the number of employees. That is because of increased productivity and increased efficiencies in the railroad industry. It really can't get much lower per ton mile or per railroad mile traveled.

This chart shows the railroad crew size and productivity. As you can see, in about the years 1950 to 1964, the average crew size was five. In the years roughly 1960 to 1978, the crew size was four, and on down to about 1998, the average crew size is two.

You can't get much lower than two for a crew on a train. There is always going to be at least two. We are not going to have fewer employees. We will probably have more trains, which means more employees, but we are not going to have fewer employees per train.

Meanwhile, the revenue per ton mile and per employee, as you can tell by the chart, is increasing at a very high rate. We have more revenue for ton miles per employee. That is going to help the solvency of the trust fund. At the same time there are not going to be any fewer employees than there are today.

The basic point is, Is this the responsible way to solve the problem of explosive trust fund balances? I submit yes. One, the actuaries will maintain a balance that is proper. There will be annual reports galore.

I urge Senators to resist this amendment. It is unnecessary. It is wrong. It means the balances will stay forever. The benefits will not be greater. The burden on taxes will not be lower in due time.

If this amendment is agreed to, despite being wrong on its merits, it is going to probably mean no railroad bill this session, and maybe next year, because we will have to go to conference on this matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me be brief. When all the people came to see me about 6 months ago—actually, almost a year ago, in relation to this bill—I sat down to listen to them, having spent about 3 years working on Social Security.

Let me give you my response, based on something I think everybody can understand. Today we are really worried about Social Security because we have 3.3 workers per retiree. We are going to two workers per retiree. We are very concerned about our ability to pay Social Security benefits.

I have done a great deal of work and written a fair amount of material and articles explaining how investing Social Security surpluses in interest-

earning real assets will cause the trust fund in Social Security to grow and will enhance our ability to pay benefits.

But I have never suggested that investing the Social Security surplus could allow us to lower the retirement age in Social Security from 65 to 60. In fact, under current law, it is rising from 65 to 67 even at this moment. I have never suggested that before any money is invested that we could cut Social Security taxes. Someone would laugh in your face if you suggested that.

Now, into my office walk representatives of the railroads and unions, and they say: Look, we have a program which has one worker for every three retirees, not the other way around, which it is with Social Security. This retirement program is in much worse shape than Social Security. We want to invest our trust fund, and we are going to cut the retirement age, reduce the amount of time you have to work to get benefits, increase benefits, and reduce the amount that the railroads are putting into the program through two different payments they are making.

First of all, if, in your retirement, somebody told you they could spend 75 percent of your trust fund, give you more benefits, and you could pay less in, I do not think you would believe it. Well, you should not believe it because it is not true.

My colleague points out my chart ends in 2026. Why? Because in 2026 the payroll tax, which the railroads are saying have to be reduced for them to be able to operate—they have to be reduced from 16.1 percent down to 13.1 percent—by the time we get to 2026, the payroll tax is up not to 16.1 percent but 22.1 percent. Does anybody believe that the railroads can or will pay 22.1 percent of payroll into this retirement program? Nobody believes they can or will.

Everybody understands that 20 years from now we are going to hear this knock on our door. We are not going to be here, but somebody is going to be here, and the railroads are going to say: My God, this retirement program is in terrible trouble, and under law our payroll tax is getting ready to jump from 13.1 percent to 22.1 percent. We cannot pay these taxes. At that point whatever these charts show is not relevant because everybody knows the railroads cannot pay that amount into this program and operate viably in the American economy.

So what is going to happen? You have spent four-fifths of the trust fund or let the railroads spend four-fifths of the trust fund. You have a payroll tax of 22.1 percent. What is going to happen? They are going to say they can't pay it and they are going to ask the Federal Government to intervene.

When you are talking about what good shape this trust fund is in, what is being called solvency here is having enough money to pay benefits for 4 years. There is no private retirement program under ERISA that would not be shut down if it had assets that would only pay for 4 years.

My amendment is not what I would call a stingy amendment. My amendment says, OK, take this trust fund, and we are going to give you $15 billion right out of the Treasury. You can invest it on behalf of the retirees. And then you can spend every penny that you earn on that $15 billion. You can lower the amount railroads are putting into the system. You can give new benefits, but you cannot spend the principal. That is all my amendment does.

If we do not adopt an amendment similar to this, I want to predict, even though I do not think any of us will be here 20 years from now—I certainly will not—that 20 years from now this retirement program is going to be on its back, the railroads are going to be being pulled down economically by having a 22.1-percent payroll tax, and we are going to have a transportation crisis in America.

I do not know if anybody will ever look back at what we are doing here, but they should. Because what we have done, underneath all else, is that while we are doing some things that make sense—letting them invest the trust fund makes sense—we are literally letting them take $15 billion, we are letting the railroads pocket $7.5 billion, we are letting them give $7.5 billion in gifts to their retirees and workers, and we are setting up a situation where there is going to be a train wreck, and the taxpayers are going to be forced to pick up the pieces.

Senator NICKLES and I have no constituency. That is obvious. This thing has been sold. All the railroads have come to Republicans and said: This is great; it will be great for railroads. The unions have come to the Democrats and said: This will be great for the workers. And the bottom line is, nobody cares, apparently, about the taxpayer or about the future of this retirement program.

So we are on the verge of cutting this, taking 75 percent of the money out of this trust fund and giving it away, committing ourselves to the railroads, having to pay a tax that we know they are not capable of paying, that we know cannot be paid. How are railroads going to put 22.1 percent of every dollar they pay to every worker into this trust fund 20 years from now when they cannot put 16.1 percent in today? They are not going to be able to do it.

So all my amendment says is, let them invest it and do whatever they want to do with the interest, but do not let them spend the principal. What that will mean is, the trust fund will basically stay at its current level. They can reduce the amount railroads are paying in. They can increase benefits. Neither of those actions, in my opinion, is fiscally responsible, but they cannot simply pillage the trust fund for $15 billion over 17 years, which is exactly what happens under this proposal—and every set of figures used by every person in this debate all come from the railroad retirement board. All of them show that the trust fund, over the next 20 years, is depleted, under the expected economic projections, by 75 percent. That cannot be good public policy.

I understand that Senator NICKLES has an amendment. What I would like to do is yield the floor. If there is any more debate on this amendment, there can be, and I would be happy to have the amendment set aside. Senator NICKLES can offer his amendment, and then it can be debated. And then we could have the vote on the two amendments and sort of see where we are.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2175 TO AMENDMENT NO. 2170

(Purpose: To use a 5-year average rather than a 10-year average on capturing the average account benefits ratio)

Mr. NICKLES. Mr. President, I ask unanimous consent the pending amendment be laid aside and I call up amendment No. 2175.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 2175 to amendment No. 2170:

On page 40, line 1, strike ''10 most'' and insert ''5 most''.

Mr. NICKLES. Mr. President, I compliment Senator GRAMM for reading the bill and trying to do something to protect the integrity of the trust fund.

He has said, No. 1, if we are going to give them $15 billion, let's make sure we don't spend down the principal. And, No. 2, let's only spend the interest or the dividends from that trust fund to provide new benefits. I support him in that. I compliment him for that.

I also have an amendment that wants to protect the integrity of the trust fund. The trust fund, by any of the scenarios—I will show the charts in just a minute—the trust funds goes way too low. The bill's stated objective is to keep the trust fund equal to but somewhere between four and six times the annual payment to beneficiaries. That is their goal. That is their objective. Unfortunately, the bill before us, under the middle assumption, doesn't even come close to that.

As a matter of fact, the trust fund goes all the way down to about 1.3 annual payments. In other words, it almost goes bankrupt. It barely has enough to make 1 year's payments of

benefits. That is not a good deal for taxpayers, and it is certainly not a good deal for railroad retirees. I don't think it is a good deal for the railroad companies because they are going to be socked with a very large tax increase.

I will use the chart Senator BAUCUS has. I think it illustrates it. We start out with about 6 years of benefits under today's standard, but when we pass this bill, in a period of about 20 years, we go down to just a little over 1 year's balance. In other words, we take a fund—and I will insert this in the RECORD. Actually, I will insert for all three assumptions.

Under the assumption I will talk about, the employment assumption No. 2, the one in the middle, we start with a balance this year of $19.3 billion. And under current law, that goes to $34 billion.

Under the bill we are getting ready to pass—and I can count votes; frankly, I could count votes before this week started—that trust fund balance goes from $19 to $8.4 billion. Instead of being $34 billion, it goes to $8.4 billion. That is the bill we are getting ready to pass.

I wish I could wake up all my colleagues, most of whom have not read this bill, most of whom had nothing to do with drafting the bill. This is the first time I can recall in my 21 years in the Senate that we have had a bill that was totally written by special interest groups. In this case, railroad unions and management got together and said: Here is our bill, don't touch it. Don't have a hearing on it.

They didn't have a hearing in the House. We didn't have a hearing in the Senate. I asked for a hearing in the Senate Finance Committee. We did not get it. We had a markup but it was already railroaded. There were not going to be any amendments. There was one amendment adopted in the House or the Senate. That was the amendment dealing with scoring. We are not going to count it. It didn't say we will waive the Budget Act. It said will not count it, which I think is even worse than just waiving the Budget Act. Why have a Budget Act if you are going to have $15.3 billion in budget outlays and it doesn't count?

We just had a vote on that by Chairman DOMENICI and ranking member CONRAD, and we lost. We lost that vote. So the special interest groups are together. And they said: Let's leave it in. They didn't request that amendment. It is interesting; that was put in by the House. So that was the only amendment they put in.

It was a bad amendment in my opinion. We are going to accept that, and we are going to keep the bill. We will not touch it. I think we are making a mistake.

You ask: Why are you still fighting this? You know this bill is going to pass? Sure, I do. But I want to make a statement. I want to show that we can do a better job. We are not beholden to the special interest groups. We are beholden to taxpayers. This is a Federal statute. We are changing Federal law. How many CEOs of the railroad companies or how many union members were elected to the Senate? I don't know, but they wrote the law. They wrote the bill that is going to become law.

I don't think they did a very good job. If I thought they did a good job, maybe I would cosponsor the bill. I don't think they did a good job. History will tell.

I will make a prediction. I am not going to be here in 20 years. I guess if I was as studious and healthy as Senator THURMOND, maybe I could be. If I was fortunate enough to be reelected by the people of Oklahoma, maybe I could be. Agewise it is possible, but it is not possible after consulting with my spouse. But 20 years from now, if not well before that, Congress is going to have to readdress this issue because we are going to have a big problem.

As this chart shows—I am borrowing Senator BAUCUS's chart, and I thank him—we are going from 6 years of benefits down to a little over 1, we think. That is in 20-some years.

Then Senator BAUCUS said: Wait a minute. Way out in the outyears, it goes way up. Who knows? I know they are going to have problems when we get into the year 2021, 2022, 2023, 2024, 2025 and 2026. It goes way down. The trust fund actually falls by 65 percent. When you have that trigger, payroll taxes have to go way up. Payroll taxes have to go up by 69 percent.

That is because in the bill we say if it triggers at a certain point, we are going to have a tax increase, a tax increase that is paid by the railroad companies. And it goes from 13.1 percent to 22.1 percent.

Senator GRAMM said they are having problems. They have shrunk their labor force significantly. They are not going to be able to handle that kind of increase. They will come back to Congress and say: Here, it is yours. The trust fund is broke. It didn't work out very well, so pay our employees. And because the Railroad Retirement Act is a Federal statute, it becomes an entitlement.

Many people here say it is not that. No, they won't be coming back to us.

I predict that within 20 years they will be coming back to Congress and saying: We need a fix. We need a little bump. We need a little transfusion. Maybe the transfusion will be from Social Security. They are already getting it. I wonder how many of our colleagues know that they get billions of dollars from Social Security, basically from tier 1 going into tier 2, to pay their benefits. It is in the bill. I have an amendment that will address that. Possibly we will consider that soon.

Right now I offer an amendment that I urge my colleagues to look at, consider, and hopefully pass. The triggering mechanism to have a tax increase is if the trust fund goes so low that there will be a tax increase. If you actually get low enough to pay benefits for 4 years, you have a tax increase. It is automatic. It is in the bill. It would become law soon. OK. That makes sense. But you ought to have some kind of triggering mechanism so if we keep the trust fund balanced, we won't be coming to the taxpayers for general revenues.

What is wrong is the calculation. You look back over 10 years to figure that average. By looking over 10 years, if you just see the revenue estimates, they estimate that the trust fund balance goes from a high, somewhere in the neighborhood, under present law, of about $27 billion. Under the Daschle bill or the railroad bill we are getting ready to pass, the railroad trust fund runs about $23 billion. Then the next several years it falls to 19, 18, 17, 16, 13, 12, 10, 8. You are looking at a 10-year average. If you look at a 10-year average and you are averaging 8 and averaging 20, maybe it won't trigger the tax increase until about the year 2021, 2022, 2023. In other words, it allows the fund to fall from about 6 years' payments down to a little over 1 before the tax increase is triggered.

That is too late. That doesn't allow the trust fund to have enough time to recharge, to build, to have a cushion to earn interest or to earn dividends. In other words, we allow this dip to go too low.

The effect of my amendment would be to smooth that out. Possibly it would smooth out the payroll tax increase. In other words, instead of looking back over 10, we would look over 5. So your average, once you got on the decline, it would say, if we get much lower, we will have to have a tax increase sooner to keep that fund from going so low. That is too big of a dip. That is too dangerous for railroad employees or retirees to have the fund balance dip down as low as 1.3 annual payments.

This is under the middle scenario. If you look under the pessimistic scenario, it goes in the red. Under the pessimistic scenario, the whole trust fund goes totally in the red by the year 2022. It will not be able to make payments. It will need either general revenue funds or it will have to cancel increases or suspend payments or whatever.

In other words, there is a scenario here where the fund is totally broke in 20 years. That is not acceptable. I don't think it is acceptable. I think we should protect railroad retirees. We have too much of a variable by using a 10-year average before you have a trigger for a tax increase. So my suggestion is, let's make it over a 5-year average. If you get on a down slope, the trust fund starts falling in value, we won't have to wait another 8 years before you trigger a tax increase.

That is the essence of my amendment. It is a friendly amendment. It is not an amendment to gut the bill. It is not an amendment to say we don't want railroad retirement and we are not going to have railroad retirement. It is an amendment that says they put together a deal that was negotiated between labor and the employees or the unions. They may have cut a good deal for the employers, basically saying let the fund go almost bankrupt before you trigger a tax increase.

We will do that in 20 years. Guess what. Everybody running those companies will all be retired by then, and Members of Congress will all be gone by then. Let somebody else worry about that. So these big tax increases are not triggered—it is interesting, they are not triggered until 15 years from now, but then they are pretty big. It is not a 10-percent increase in payroll taxes, not a 20-percent increase; they keep the tax rate basically at 13.1 percent for about the next 15 years and, bingo, you go from 13.1 percent to 22.1. That is a 69-percent increase in payroll taxes.

I just can imagine—as a matter of fact, I will make this prediction: When this happens 15, 20 years from now, somebody is going to come back—the railroad companies will say: We can't afford that. That will bankrupt us. They will basically say: Taxpayers, you handle it or liquidate the railroad so they can pay these benefits.

You are in that kind of scenario. That will happen. That is too Draconian of an increase because we allowed the trust fund to get too low before we triggered the changes. I say, let's trigger the tax increase. Instead of over a 10-year average, do it over a 5-year average. That makes a lot more sense. We are not holding these funds to fiduciary standards. I have an amendment to do that. We don't hold them to fiduciary standards that we do all other multiemployer plans. Maybe we should.

I have told some of my colleagues who have been voting and saying they want to take up the bill, all right, we are on the bill. I want to consider the bill. They say let's consider amendments. Well, this is an amendment. This is an amendment that would help the security of the trust fund, make sure it doesn't get down too low. We would have the automatic trigger moved up a little bit. That is the essence of the amendment. Instead of letting the fund dip down quite so low—before it goes down too low, below the threshold of four times annual payments, we would trigger the tax increase a little earlier so it doesn't go down quite so low. That is the essence of the amendment.

We want to save the trust funds so the funds will be there to make the payments and not bankrupt the railroads at the same time. Now, maybe if, in the interest in this bill, the railroad companies and the unions would have come before Congress and said, yes, let's have a hearing on this bill, I could have asked them questions. My guess is the railroad unions would say, yes, I like that idea. They would probably say I like that idea because we don't want to jeopardize our payments. If somebody is retired at age 60, and they happen to be age 80 and they are reading the reports, they would say, the trust fund went down to almost bankrupt. They can barely make payments this year. They are not going to get a lot of comfort over that. So the idea is, let's try to make greater protection of the trust fund.

Mr. President, I want to have printed in the RECORD a table that I have compiled, my staff, of the three various employment assumptions, 1, 2, and 3.

I ask unanimous consent that this table be printed in the RECORD.

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

RAIDING THE RAILROAD RETIREMENT TRUST FUND

[Daschle amendment 'versus' current law (in millions of dollars)]

Year	Railroad Retirement Trust Fund balance employment assumption 1				Railroad Retirement Trust Fund balance employment assumption 2				Railroad Retirement Trust Fund balance employment assumption 3			
	Current law	Daschle	Change	Percent change	Current law	Daschle	Difference	Percent change	Current law	Daschle	Difference	Percent change
2001	19,383	19,383	.....	.....	19,363	19,363	.....	.....	19,341	19,341	.....	.....
2002	20,412	20,504	92	.....	20,339	20,431	92	.....	20,254	20,347	93	.....
2003	21,484	21,351	(133)	−1	21,332	21,194	(138)	−1	21,135	21,014	(121)	−1
2004	22,594	22,027	(567)	−3	22,304	21,756	(548)	−2	21,973	21,446	(527)	−2
2005	23,745	22,698	(1,047)	−4	23,285	22,273	(1,012)	−4	22,763	21,790	(973)	−4
2006	24,750	23,170	(1,580)	−6	24,075	22,549	(1,526)	−6	23,312	21,846	(1,466)	−6
2007	25,951	23,753	(2,198)	−8	25,011	22,887	(2,124)	−8	23,954	21,913	(2,041)	−9
2008	27,176	24,263	(2,913)	−11	25,915	23,100	(2,815)	−11	24,506	21,799	(2,707)	−11
2009	28,417	24,710	(3,707)	−13	26,777	23,191	(3,586)	−13	24,954	21,501	(3,453)	−14
2010	29,657	25,096	(4,561)	−15	27,574	23,158	(4,416)	−16	25,271	21,011	(4,260)	−17
2011	30,724	25,213	(5,511)	−18	28,129	22,784	(5,345)	−19	25,273	20,107	(5,166)	−20
2012	31,983	25,430	(6,553)	−20	28,800	22,432	(6,368)	−22	25,314	19,145	(6,169)	−24
2013	33,257	25,567	(7,690)	−23	29,404	21,916	(7,488)	−25	25,205	17,930	(7,275)	−29
2014	34,550	25,626	(8,924)	−26	29,939	21,228	(8,711)	−29	24,940	16,448	(8,492)	−34
2015	35,868	25,613	(10,255)	−29	30,406	20,366	(10,040)	−33	24,509	14,688	(9,821)	−40
2016	37,016	25,337	(11,679)	−32	30,601	19,130	(11,471)	−37	23,707	12,441	(11,266)	−48
2017	38,423	25,224	(13,199)	−34	30,945	17,935	(13,010)	−42	22,943	10,237	(12,706)	−55
2018	39,916	25,103	(14,813)	−37	31,259	16,600	(14,659)	−47	22,034	7,769	(14,265)	−65
2019	41,524	24,998	(16,526)	−40	31,562	15,136	(16,426)	−52	20,990	5,166	(15,824)	−75
2020	43,278	24,933	(18,345)	−42	31,876	13,723	(18,153)	−57	19,823	2,691	(17,132)	−86
2021	45,014	24,734	(20,280)	−45	32,027	12,023	(20,004)	−62	18,353	309	(18,044)	−98
2022	47,142	24,808	(22,334)	−47	32,420	10,604	(21,816)	−67	16,977	(2,060)	(19,037)	−112
2023	49,512	24,983	(24,529)	−50	32,890	9,660	(23,230)	−71	15,529	(4,599)	(20,128)	−130
2024	52,149	25,268	(26,881)	−52	33,455	8,704	(24,751)	−74	14,021	(7,316)	(21,337)	−152
2025	55,079	25,687	(29,392)	−53	34,132	8,495	(25,637)	−75	12,461	(10,206)	(22,667)	−182

Source: Railroad Retirement Trust Fund actuaries. Provided by Senator Don Nickles, 12/4/01.

Mr. NICKLES. This compares present law to this bill, under those assumptions. Present law under the employment assumption, the middle assumption, shows in current law a trust fund balance of $19.3 billion today and $34 billion in the year 2025. Under the Daschle amendment, or the bill we have before us, we start at $19.3 billion, and in 25 years we end at $8.5 billion. In other words, the trust fund is only about—well, it is 75 percent below where it is today, or where it would be under current law. That is assuming a 21-percent payroll tax in the last few years. So even with enormous payroll tax increases, the fund is still in serious jeopardy of being able to pay benefits, being able to provide security and assurances that there is going to be money there for retirees who maybe worked most of their lives and depend on it.

I have put this in the RECORD because I want people to see it. I want railroad management companies to look at these scenarios and realize, OK, we are trading current law for this. This may be a great deal for them for the intermediate time. People may say: Why are you doing this? Railroad companies will save a few hundred million dollars a year—over 10 years, $4 billion; over 15, 17 years, $17.5 billion. Their taxes are going to be cut. I will put that into the RECORD. Their taxes are going to be cut over $400 million and that gets larger every year. That is what the companies get by reducing the payroll tax from present law, $16.1 billion, to 13.1 percent, and then it eliminates another supplemental benefit tax that

boils down to, I think, 26 cents an hour. They eliminate both of those taxes and save about $400 million a year—''they'' being maybe a dozen railroad companies. They save $400 million a year.

What do the employees get? The employees get a pretty good deal. They get a deal because they have tier 1 benefits that are supposed to be equal to Social Security; they pay the same tax. The Social Security tax is equal to 6.2 percent for employees, 6.2 percent for the employer. They pay the identical tax, same tax as everybody else in America. But they don't get the same benefit. Under Social Security benefits, people receive their full retirement benefits at age 65, which is going to age 67. Under railroad retirement, they get to receive 100 percent benefit now at 62. This bill makes that 60. They pay the same tax with more benefit. You get zero if you retire at age 60 under Social Security. If you retire at 62 under Social Security, you get 80 percent of the benefit you were expected to receive at age 65. That 80 percent is being reduced under current law to 70 percent over the next several years. So under Social Security, a person who retires at 62, many years from now, gets 70 percent; and under railroad retirement, they get 100 percent benefit at age 60—and they pay the same taxes. There is a big difference there.

What about the survivor benefit? That is a great big benefit increase for railroad retirees. It costs money. How much does it cost? Guess what. It costs about $4 billion a year over the next 10 years. They also have another little benefit: tier 2 benefits, non-Social Security benefits, the other railroad retirement benefits, a survivor benefit equal to 100 percent of what the employee was receiving. That is pretty nice because in most private pension systems the survivor receives 50 percent. I wish they could pay that much and more. Who is going to have to pay the bill? What are those benefits? They add up to $4 billion over the next 10 years. That is about $400 million per year in a couple of years. So it totals about $4 billion over the next 10 years. It just happens to come out even that the railroad companies and employees come out with the same amount of benefit. That is what they mutually agreed upon. Well, what they didn't do, in my opinion, they didn't protect the fund. The fund goes almost bankrupt before this triggering mechanism to make sure the fund stays solvent is kicked in. That is not to get too technical, but they have a 10-year lookback average before, and if that average gets below 4 years' annual payments, then they have an automatic tax increase. That waits too long and allows the fund to go down to 1.3 annual payments before the tax is really kicked in—maybe it is kicked in in the last couple years, but it doesn't catch up.

So the fund is in jeopardy. The payments are in jeopardy. The whole concept of paying railroad retirement is in serious jeopardy because we didn't do a good enough job, when we created this change, to make sure it would be solvent. So I have an amendment—really a simple amendment—that says instead of looking back over 10 years, look back over 5 years. I think it is a reasonable amendment, one that if the railroad employees could look at, they would support in a minute, absolutely, totally, completely. It is a good provision to try to make sure there will be a trust fund there instead of allowing it to dip so low.

I urge my colleagues to support the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, basically, this amendment offered by the Senator from Oklahoma is just unnecessary. In fact, he used my chart. My chart makes a case that is much worse than would occur under the bill.

I am just trying to present the facts so people can make a reasonable judgment. I looked at the balance on a year-by-year basis. That is what that chart shows. Under the bill before us, there is a 10-year rolling average lookback which means that lower level on the chart would never get that low under the bill. The Senator from Oklahoma wants to change it from 10 to 5. Even 5 will not get that low.

The main point is that many people have looked at this issue from different directions and have concluded that this legislation is a good way to deal with the excess balance in the railroad retirement trust fund. By increasing some benefits, by lowering taxes, and yet building in some automatic auditing devices, that comports with requiring the actuary to report whether the trust fund is actuarially sound in the current year and succeeding years under various economic assumptions.

I do not know how much better we can do than that. It is very difficult to predict the future. I remind my colleagues that CBO, in trying to make 10-year estimates, let alone the 20 years we are talking about here, has varied its 10-year totals by $1 trillion over a 6-month period of time. It is because economic assumptions change so quickly, so often.

We are in a more uncertain world than we were, say, 10, 15, 20, 30, 40 years ago. The actuaries have done the best they can with what they have. They made three different projections. One is pessimistic, one is intermediate, one is optimistic. The assumption we have been talking about is the intermediate. It is not the pessimistic, not the optimistic; it is the intermediate.

I submit that with the annual reports from the actuaries coming to the Congress, we will know whether we are getting into trouble or not.

This is the best solution we could come up with at this time, and it is done on a fair, reasonable basis.

Taking a more pessimistic analysis than provided by the analysis of the Senator from Oklahoma, the worst case is about the year 2020, 2022, and that is when the ratio is 1 to two-thirds, balance to costs. The Social Security actuary says we can get as low as 1 to 1. We are not 1 to 1 today in Social Security. The Social Security actuary says that is the lowest benchmark with which he deals.

Under our intermediate assumptions, we do not get that low. We get 1 to two-thirds, 1 to 1. I suggest we are even too pessimistic.

I asked the question of the chief actuary how the economic estimates have been on employment levels, which is the most difficult estimate to make. His response is: Employment levels over the last 5 years—railroad employment—have decreased an average of .9 percent per year. He said this decrease is better than assumption 1. Assumption 1 is the most optimistic assumption. He says for the last 5 years, the actual decrease in employment was .9 percent per year, which is better than provided for in assumption 1. We are talking about the intermediate, not assumption 1.

He also says employment levels over the last 10 years have decreased an average of 1.8 percent which falls somewhere in between assumption 1 and assumption 2.

We have been a little too conservative actually. The main point is, who knows what the world is going to be like in the year 2020? The Senator from Oklahoma takes the most pessimistic assumption and says we cannot have that. My Lord, if we are in that bad a shape in 18, 19 years, I can tell my colleagues we are going to be doing a lot of other things in this body in addition to railroad retirement. I have confidence in the Congress, in the system. We analyzed this thoroughly. We will do well.

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

Mr. BAUCUS. In just a second. I also say this measure before us has 73 cosponsors. It was considered last year in September in the Finance Committee. We had 20 amendments in the Finance Committee. It passed by a very large margin in the House.

In sum, this amendment is unnecessary, and it is also mischievous because if it were to be adopted, this bill would have to go to conference. There would be no railroad retirement bill this session, and there could be no railroad retirement bill this Congress.

I urge Members not to agree to this amendment.

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

Mr. BAUCUS. Yes.

Mr. NICKLES. The Senator said I took the most pessimistic assumption. I correct him. All my statements and the charts are on the middle assumption, not the most pessimistic assumption. The most pessimistic assumption

says this bill has real problems. I did not use that. I used the middle assumption.

Mr. BAUCUS. I stand corrected. Mr. President, most of his analysis was on the intermediate assumption. At one point, he was talking about the most pessimistic assumption. My response was to both.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I do not want to inflate anything. I am very particular on being factual. I want to correct a mistake I made in my earliest debate. This came up, frankly, when those of us who had some concerns about the legislation were informed of it on Monday and we were to debate it on Tuesday. I cited from memory that this fund had actually paid out more every year than it had taken in, to the tune of about $90 billion. That was not factually correct.

The facts are the fund has paid out more than it has taken in every year since 1957. For the last 43 years, it has actually received payroll taxes, contributions from employees, and it has made benefit payments. The benefit payments have exceeded payroll taxes and company contributions every year for the last 43 years, so I was correct from 1957 on. I wanted to state that, and I will insert that in the RECORD as well.

I want to be factually correct. I want my colleagues to understand that when I state that 20 years from now there is going to be a big problem if we do not do something because we are getting ready to set up a system that allows this fund to almost go bankrupt, almost to where they cannot pay the benefits before we let the tax increase trigger.

Some people have said: This is self-funding. This is great. We are going to keep these fund balances between four and six times annual payments for the next 75 years. If the trust fund balances go up, they make good investments, they invest in a lot of stocks that did exceptionally well, great; they can have payroll tax cuts.

If they do poorly, if they get below that four, we will have automatic payroll tax increases on the employer, not the employee. Fine, if that works.

Under the middle assumption, the tax increases are not triggered until well after the fund is depleted because they use a 10-year average. So they are on a sliding-down scale before the tax increases trigger, so the fund almost goes bankrupt. It goes down to about 1.3 annual payments before they have the tax increases, and then they are in serious trouble.

Somebody said this is the law; this does not allow general fund financing, which is one of the reasons I happened to be concerned about it. Somebody asks: Why are you so concerned? Ultimately the Federal Government could be liable. You say: Why? Let me read a couple statements.

I like to think the railroad companies would take care of their employees, and if they did, I couldn't care less what benefits they pay. If this were out of the Federal system, they could pay whatever benefits they want. I do not care if they have retirement at age 40 if they pay for it and the Federal Government is not liable for it. I do not care if they have early retirement.

I do not care if they have a spouse benefit that exceeds 100 percent if they pay for it.

What I disagree with strongly is if they greatly increase benefits and underfund the system and then say: If this does not work out, taxpayers, you pick up the cost. Why should we be asking people in Minnesota or Oklahoma who make $40,000 a year or $20,000 a year to increase their taxes to pay benefits for people who make a lot more money than they do and enable them to retire at age 60 when people in Oklahoma do not get to retire until they are 65 or 67 and then they receive benefits far greater than people in Oklahoma receive? I do not want the people of Oklahoma to have to pay taxes for them to do that.

I will read a couple quotes. Supporters insist the amendment places responsibility on future benefits on the railroads in the event investments do not work out.

I will read what the railroad industry thinks of its responsibility. This is a quote from the United Transportation newsletter dated May of 2000:

> The legislation also requires that the railroads would be responsible if the trust fund falls below a certain level. If this happens, a tax would automatically be placed solely on the carriers in order to replenish the fund. In order to add a final assurance to the integrity of the fund, it is still bound by the full faith and credit of the United States Government. They would be required to pay the obligations of the fund if, for some reason, the other safety nets in place were insufficient.

Earlier this year, the Lincoln Journal Star—on 8/15 of this year—stated:

> Other unions and the Association of American Railroads are promoting the bill as a self-financed shoo-in. In fact, the U.S. government would still back the retirement fund, acknowledged Obie O'Bannon, vice president of legislative affairs for the association. But, he pointed out, the "automatic tax ratchet" would require the railroads to kick in more money any time the fund's balance is below four times annual benefits, so that's protection that would mean all U.S. railroads would face insolvency before the Federal liability applies.

I don't want the railroad to go insolvent, but I don't want the Federal liability to apply either. I don't want our taxpayers across the country to have to bail this system out because we did a crummy job of legislating in 2001, and in 20 years we say: Well, we made a mistake. Darn, Senators GRAMM and NICKLES were right. Now the railroad companies are faced with a huge tax increase they cannot pay.

The fund is raising towards insolvency. Taxpayers, would you please give a supplemental. Let us raid a little more from Social Security—which they do under this bill, as well. There is about a $2 billion transfer from Social Security to help pay tier 2 benefits. That is interesting. I thought we would protect Social Security. But we have a Social Security bailout for the bill. Maybe we will address that shortly.

How else do we fix the fund? Are we going to write a check? Is the Federal Government going to write the check? I don't know. Some people in the unions say that is what we will do. Some in management say that is what we will do. I don't think that is the solution.

Let me read the last sentence of the vice president of legislative affairs for the Association of American Railroads:

> All railroads would face insolvency before the federal liability applies.

I don't want the railroads to become insolvent, nor do I want the Federal taxpayers to become liable for all the generous benefits. These benefits, in comparison to retirement benefits in the private sector, are very generous—overly generous. Find other private pension systems that offer full retirement at age 60. You won't find very many. Find other pension systems that offer spousal benefits or survivor benefits at 100 percent. You won't find very many. I doubt the department stores offer these kinds of benefits. Manufacturing companies don't offer these benefits. Yet we are getting ready to do it.

Now I read that if it doesn't work out, taxpayers "will bail us out."

I won't be in the Senate, or I doubt I will be in the Senate, 20 years from now, but if I am, I guarantee I will be opposing a taxpayer bailout of this industry. And conversely, I hope there will be others opposing this. This will happen. It is a prediction. It will be in the CONGRESSIONAL RECORD.

I hope I am wrong. I hope they find investments that do enormously well. They might find good investments such as Intel, 10 years ago, going up in multiples. They might also find investments such as Enron. I am concerned. Everybody indicated this is not so bad.

I have not raised this on the general issue of debate. This investing in private funds is a good idea. I love for private individuals investing for themselves to buy parts of different companies. I am reluctant to think: What will this board invest in? Mr. President, $15 or $16 billion is a lot of money. What companies will they buy? Are they going to be politically correct? Would they buy Microsoft? Our Government was suing Microsoft. I guess they still have suits pending against Microsoft. Maybe that is not politically correct. What about tobacco? Our Government in the previous

administration was going after tobacco. Philip Morris was a good investment the last year. Microsoft was a good investment the last year. Would they be buying utility companies? A lot of utility companies are being sued for a lot of different reasons. Do they have to wash their hands from investments?

I have concerns when you have a board comprised of rail management representatives, union representatives, and they select one additional person they mutually agree upon to invest billions and billions. I have reservations about that. That is not what I raised this issue on.

For the information of colleagues, we will vote on the Gramm amendment and the Nickles amendment starting around 4:30. For the information of our colleagues, we will have the joint prayer service, which we desperately need, starting at 5 o'clock. The amendment I am offering says, before we allow the trust funds to be depleted on such a steep decline, if a 5-year average gets below 4 years, annual payments trigger the tax increases at that time instead of using the 10-year average. That would keep this a lot more shallow. It will keep the fund probably well above 2 or 3 in the annual balance statement, certainly above 2—not allowed to dip down so deep. That is for the protection of the railroad retirees and for the protection of taxpayers, to make sure we will not have to do what the United Transportation Newsletter said: We can always fall back on the full faith and credit of the U.S. Government.

I hope that doesn't happen. I will work energetically to see it doesn't happen. If we keep the trust balance more level, it will not happen.

I urge my colleagues to support the amendment that would say, instead of having a 10-year lookback before you trigger an automatic tax increase, do it over 5 years so we don't allow the trust fund balances to go as low as they are now projected to by the railroads' own actuaries of the pension plan.

I yield the floor.

Mr. BAUCUS. Mr. President, I don't see any other Senators wishing to speak, and the leadership would like to schedule these votes around 4:30, so we have 15 more minutes. I will take that time to make a couple of points.

First, this amendment offered by the Senator from Oklahoma simply is unnecessary. It is true that there is a dip. The fact is, on a yearly basis the dip is as represented on that chart, but the bill before the Senate will not be as low as represented on the chart. Even if it is as low as represented on the chart, this is unnecessary.

It is true that there is a question in the year 2021. There are a lot of questions. We have to do the best we can with what we have. The vast majority of Senators and House Members have considered and concluded that this is a fair way to deal with this issue. This issue, if it arises, will not arise, according to the basis of this debate, for another 20 years. So we are talking about what may or may not occur in 20 years. Because of the annual reports provided in the bill and the actuarial estimates on an annual basis, when it gets closer to 20 years from now, we will have an idea whether or not this is working. If it is not working, we will make adjustments. This amendment is totally unnecessary.

A couple of other points. The Senator mentioned there is a lot of Social Security money going into railroad retirement. I will address that. It is a point that is not commonly understood. In America today, clearly, there is a wide variety of industries. Some are new young industries, service industries; some are older, mature industries, such as railroad or mining industries. Industries come and go. They expand. They are just different, which means they have different ratios of the number of employees paying into Social Security compared with retirees receiving Social Security in that industry.

Social Security, of course, doesn't collect and pay on an industry basis. It collects and pays on a national basis. It is a large pool of Americans, American workers paying into Social Security, and there are a large number of retirees in America receiving benefits.

So as a practical matter, if we look at an industry, say a mature industry where there are fewer employees paying into a Social Security trust fund, and a lot of retirees receiving benefits, in effect there is a transfer of Social Security to that industry away from a younger industry where there are so many more employees paying in and so many fewer retirees receiving benefits. In effect, that is what happens today in America under Social Security. That is what is happening today in railroad retirement under tier 1, which is essentially Social Security. Because it is a mature industry and because there are fewer employees—railroaders in the industry, compared with the number of retirees proportionate to the average industry in America—there are transfers in effect to railroad retirees under tier 1 as is the case for all industries and for all workers in America today. There is no difference. There is no difference.

So it sounds as if Social Security is helping out unfairly, enriching railroad retirees under tier 1. It just is not because the Social Security tier 1 employees are treated the same way as are employees in a mature industry receiving benefits.

The second point is it has been suggested here that it is not fair to lower the retirement age to 60 from 62. After all, the retirement age under Social Security is higher. It has been suggested that it is not fair to vest earlier, 5 years instead of 10 years; that it is not fair that survivor's benefits for a survivor would be 100 percent instead of, say, 45 percent. And the point is made under Social Security retirees' survivors get benefits at a later age. So isn't this some special deal that railroad retirees are getting? It is not fair.

On the face of it that is a question. But, as they say, that is only half of the story. In the rest of the story, the facts are that tier 2 in railroad retirement is very comparable to a private pension plan that a company may have for its employees. The company's employees—retirees, say—would receive benefits under Social Security, tier 1 in the railroad system, and they receive benefits under their pension plan, tier 2 in the railroad industry. Many pension plans provide for an earlier retirement age—not 65 or up to 67, as required in Social Security, but at an earlier age.

Those people pay Social Security. Those are Social Security retirees. How does all that work out? What is happening here?

It is very simple. In the private sector pension plans participate in what is called a bridge with Social Security; that is, under Social Security the retirement age is 65, but under the private pension plan if you fully vest—say 30 years employment at, say, 60—the private pension plan makes up the amount that Social Security does not pay. It is called a bridge. That is how it works and it makes sense. If Social Security does not provide those benefits for early retirement age, then the private pension plan provides the benefits. That is what is happening in this legislation. It is just the same.

That is, tier 2 would provide the extra benefits under a bridge to tier 1, in effect. Actually, they don't provide it in tier 1. It is just that the extra benefits go to the retiree to make up the difference.

I submit, railroading is pretty hazardous. It is a dangerous industry. And a 62 retirement age—excuse me, a 60 retirement age after 30 years of hard work as a railroader certainly seems fair to me. There are other industries not as dangerous or demanding, but this one certainly is. It is a dangerous industry.

It has been suggested that ERISA provisions ought to apply. Railroad pensions should be fully funded, and this is not fully funded—as is the case under ERISA, which is what applies to most private pension plans.

First of all, Social Security is not fully funded. Maybe it should be. We would like to work in that direction, but it is not today. But more important, to fully fund the railroad retirement plan would require the injection of $40 billion. Then it could be fully funded. We do not have $40 billion. I think the total revenue of the railroad system in America is about $40 billion per year, and I think the income per year is close to $4 billion in the railroad industry.

Still more to the point, this trust fund, tier 2, would have about $40 billion today, an extra $40 billion, if Congress in the past had lived up to its word. It would have it. What am I saying?

Many years ago, Congress—I think it was in 1950—passed something called dual benefits. The effect of it is that railroad retirees got dual benefits. They got twice the benefits.

Clearly, that got to be a lot of money for the trust fund. If they get double benefits for Social Security compared with other retirement systems, that adds up pretty quickly. Congress decided to change that, in 1974—to end that. Congress said we are going to end this dual benefits idea. It is just too expensive. It is just too much.

But we, Congress, will grandfather in prior retirees so they do not get less than they thought they were going to get. So as a practical matter, that would have been—those benefits paid prior to 1974 would have been about $3.5 billion. If the railroad retirement system had that $3.5 billion—they did not get it, Congress did not give it to them—today that would be worth about $30 billion, $40 billion.

If Congress had lived up to its word in the past, we could come close to having enough dollars in the fund to make it fully funded and ERISA applicable. But ERISA cannot be applicable today because it is $40 billion short because Congress didn't live up to its word. Nevertheless, I think the provisions in this bill requiring all these reports assure us of notice, adequately in advance, whether or not there is going to be a problem during the next 20 years. It could be just the opposite. It could be a lot better than we expect. But if it is worse than we expect, there will be more than enough benefits for Congress to be able to change it.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will ask unanimous consent to have printed in the RECORD the ''Railroad Retirement and Survivors Improvement Act of 2001 Progress of the Railroad Retirement and Social Security Equivalent Benefit Accounts under Employment Assumption II.''

It basically says let's transfer $1.586 billion in from Social Security, or the tier 1 fund, into the tier 2 fund. Social Security is subsidizing tier 2 benefits.

I also state to my colleagues, a real solution would be if tier 1 is supposed to be equivalent to Social Security, and people want that—and then as Senator BAUCUS says, tier 2, if they want to subsidize Social Security for a lower retirement, they can do that—let's just put them under Social Security so we do not intermingle these funds. There is a little raiding going on. Under this bill, there is about $2 billion, then, $80-some million almost every year, and then it increases to almost $100 million every year that is transferred from tier 1 to tier 2.

I do not like it. We are raiding the Social Security fund.

I ask unanimous consent to have this table printed in the RECORD.

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

TABLE 3–II.—RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001

[Progress of the Railroad Retirement and Social Security Equivalent Benefit Accounts under Employment Assumption II (dollar amounts in millions)]

Calendar year	Interest rate (percent)	Tier 2 tax rate (percent)	Railroad Retirement Account					Social Security Equivalent Benefit Account						Railroad Retirement Trust Fund			Combined balance end year
			Benefits and administration	Tax income	Other inc/exp	Transfer to RRTF	Balance, end year	Benefits and administration	Tax income	Interest income	Other inc/exp	Transfer to RRTF	Balance, end year	Benefit payments	Income	Balance end year	
2001	5	21.0	$3,127	$2,870	$1,056	.....	$17,913	5,265	2,225	$77	$2,653	.....	$1,450	.....	.....	.....	$19,363
2002	8	20.5	57	2,816	.....	$20,673	.....	5,335	2,254	73	3,145	$1,586	.....	$3,371	$23,802	$20,431	20,431
2003	8	19.1	59	2,682	.....	2,623	.....	5,395	2,279	17	3,181	82	.....	3,554	4,317	21,194	21,194
2004	8	18.0	62	2,582	.....	2,521	.....	5,489	2,307	18	3,247	83	.....	3,706	4,267	21,756	21,756
2005	8	18.0	64	2,621	.....	2,557	.....	5,611	2,337	18	3,341	85	.....	3,830	4,348	22,273	22,273
2006	8	18.0	67	2,661	(84)	2,510	.....	5,735	2,367	17	3,351	.....	.....	3,971	4,247	22,549	22,549
2007	8	18.0	69	2,703	89	2,722	.....	5,854	2,395	19	3,440	.....	.....	4,144	4,483	22,887	22,887
2008	8	18.0	72	2,746	2	2,676	.....	5,991	2,423	19	3,637	89	.....	4,334	4,547	23,100	23,100
2009	8	18.0	75	2,789	.....	2,714	.....	6,160	2,453	20	3,781	93	.....	4,511	4,602	23,191	23,191
2010	8	18.0	78	2,833	.....	2,755	.....	6,353	2,485	20	3,944	96	.....	4,682	4,649	23,158	23,158
2011	8	18.0	81	2,879	(90)	2,708	.....	6,555	2,517	20	4,019	.....	.....	4,864	4,490	22,784	22,784
2012	8	18.0	84	2,926	97	2,939	.....	6,769	2,551	22	4,201	5	.....	5,052	4,700	22,432	22,432
2013	8	18.0	88	2,975	.....	2,888	.....	6,997	2,588	22	4,492	106	.....	5,232	4,716	21,916	21,916
2014	8	18.0	91	3,026	.....	2,934	.....	7,235	2,626	23	4,695	109	.....	5,408	4,721	21,228	21,228
2015	8	18.0	95	3,078	.....	2,983	.....	7,477	2,667	24	4,899	113	.....	5,576	4,713	20,366	20,366
2016	8	18.0	99	3,131	(84)	2,948	.....	7,725	2,711	23	4,990	.....	.....	5,721	4,485	19,130	19,130
2017	8	18.0	103	3,184	91	3,173	.....	7,971	2,759	25	5,216	30	.....	5,842	4,647	17,935	17,935
2018	8	18.0	107	3,240	.....	3,133	.....	8,205	2,810	26	5,493	124	.....	5,940	4,605	16,600	16,600
2019	8	18.0	111	3,297	.....	3,186	.....	8,424	2,865	27	5,660	127	.....	6,017	4,553	15,136	15,136
2020	8	19.0	115	3,516	.....	3,401	.....	8,621	2,922	27	5,802	130	.....	6,074	4,661	13,723	13,723
2021	8	19.0	120	3,579	(58)	3,401	.....	8,797	2,982	27	5,788	.....	.....	6,111	4,411	12,023	12,023
2022	8	20.0	123	3,811	63	3,751	.....	8,951	3,045	29	5,951	72	.....	6,132	4,713	10,605	10,604
2023	8	23.0	123	4,393	.....	4,270	.....	9,087	3,108	29	6,087	137	.....	6,151	5,206	9,660	9,660
2024	8	23.0	123	4,473	.....	4,350	.....	9,207	3,173	29	6,144	139	.....	6,170	5,215	8,704	8,704
2025	8	27.0	124	5,268	.....	5,145	.....	9,323	3,239	30	6,195	141	.....	6,176	5,967	8,495	8,495

Source: Railroad Retirement Board actuaries, 12/3/01.

Mr. NICKLES. Mr. President, we can solve that by putting all railroad employees, like we put all new Federal employees, under Social Security. We did it. We put Members of Congress under Social Security. To me, it would help this problem so we would get away from this little financial wiggling that has been going on with this fund for a long time.

Also, I ask unanimous consent to have printed in the RECORD a table that I have that shows the benefits for employees and the benefits for railroad companies, or management, on a year-to-year basis. I alluded to this in my statement, but I wanted to have the facts with these charts substantiating my oral comments.

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

RAILROAD RETIREMENT: H.R. 1140 AS PASSED BY THE HOUSE

[In millions of dollars]

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Reduction in Retirement Age	37	121	192	228	259	305	359	397	420	443	2,761
Expansion of Widow/er Benefits	83	92	94	95	97	100	102	104	106	108	981
Repeal of RRR Benefit Ceiling	11	14	15	16	18	19	20	22	24	26	185
Reduction in Vesting Requirements	*	*	*	*	*	1	1	1	1	2	6
New Benefits for Labor	131	227	301	339	374	425	482	524	551	579	3,933
Adjustment in Tier II Tax Rate	(59)	(198)	(329)	(362)	(366)	(374)	(379)	(383)	(384)	(386)	(3,220)
Repeal of Supplemental Annuity Tax	(59)	(79)	(81)	(79)	(77)	(76)	(75)	(75)	(74)	(74)	(749)
Tax Cuts for Management	(118)	(277)	(410)	(441)	(443)	(450)	(454)	(458)	(458)	(460)	(3,969)

RAILROAD RETIREMENT: H.R. 1140 AS PASSED BY THE HOUSE—Continued

[In millions of dollars]

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Stock Market Investment of Trust Funds	15,320	(460)	(660)	(830)	(920)	(990)	(1,060)	(1,140)	(1,250)	(1,340)	6,670
Change in Deficit/Surplus	(15,569)	(44)	(51)	50	103	115	125	159	242	302	(14,568)

Source: CBO: Provided by Senator Don Nickles, 11/26/01.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that there be 4 minutes for debate prior to the vote in relation to the Gramm amendment No. 2196; that regardless of the outcome of the vote, there be 4 minutes of debate prior to the vote in relation to the Nickles amendment No. 2175 with the time equally divided and controlled in the usual form, and that no second-degree amendments be in order to either amendment nor the language that may be stricken.

Mr. REID. Mr. President, reserving the right to object, I wonder if Senator NICKLES will also agree that we have 1 minute on each rather than 4 minutes. The Senator wants 4?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. BAUCUS. Mr. President, I ask unanimous consent that the amendments the Senate gave consent to earlier be reversed so the first vote will be on the Nickles amendment No. 2175 and the second vote will be on the Gramm amendment No. 2196.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. NICKLES. Mr. President, this amendment is to help protect the solvency of the trust fund. As the chart shows, the trust fund falls under the middle scenario. The trust fund falls from about 6 years' of payments. There is enough money in the trust fund to pay 6 years' worth of benefits. Under that scenario, if we pass this bill, which we are going to do, it goes down to about 1.3. I keep hearing 1.6. I believe it is 1.3—barely enough to pay 1 years' benefit. That is because we use a 10-year average looking back. The fund has to fall so far before the tax increase is triggered.

Under this amendment, we strike the 10 years and say let us make it 5. As the fund balance starts to fall under the railroad retirement assumption, it falls all the way down to $8 billion. We pay $8 billion in benefits right now.

I am saying, let us not let it go quite that low. Let us look back over 5 because if it starts falling, that fund gets below the 4 years' payments—enough to pay for 4 years' worth of benefits—if it gets below that, let us have the tax increase triggered then. Not 10 years, it will be 5 years out.

That will keep the fund solvent for railroad retirees. It will decrease the pressure on the railroad companies later on. It also gives some protection to taxpayers. It will decrease the likelihood that there will be a bailout or a necessity for a bailout to be falling on general revenues or general taxpayers in the year—whether it is 2015, 2017, or 2021, I do not know. Let us not let the fund go all the way down to almost 1 year's payment before we trigger a tax increase. Let us do it a little bit earlier. Let us use the 5-year average instead of the 10-year average.

I used to do this work. Anybody who talks to their actuary will say that makes a lot of sense. Waiting for a 10-year average would be absurd.

I yield the floor.

Mr. BAUCUS. Mr. President, this amendment is, first, totally unnecessary. The actuaries project that the balance of the fund without this bill over 75 years will be at least one and one-thirds above the benefits paid. That is the lowest level; that is, about the year 2002, which is significantly more than the short-term actuarial balance necessary for Social Security. One and two-thirds; one for Social Security.

This amendment is totally unnecessary. It is, second, a killer amendment. If this amendment is agreed to, we will go to conference. There are not many days left in the session. There will be no railroad retirement bill passed this year and probably not in this Congress. It is unnecessary and I particularly urge Members to oppose it.

The underlying bill requires many audit reports, financial and actuarial reports on a yearly basis on the strength, viability, and the health of this trust fund. We will have plenty of time and many years in advance to see whether or not some of the dire predictions made in this Chamber are accurate.

We have a hard time knowing 10-year budgets in the budget process around here. We are talking about 20 years down the road. A, it is not necessary; B, a lot of reports, if the dire predictions do come true; and, C, it is a killer amendment.

I urge colleagues to oppose this amendment.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

The PRESIDING OFFICER (Mr. REED). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 27, nays 72, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—27

Allard	Frist	McConnell
Bennett	Gramm	Nickles
Bond	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Helms	Smith (NH)
Campbell	Kyl	Thomas
Cochran	Lott	Thompson
Ensign	Lugar	Thurmond
Fitzgerald	McCain	Voinovich

NAYS—72

Akaka	Dodd	Lieberman
Allen	Domenici	Lincoln
Baucus	Dorgan	Mikulski
Bayh	Durbin	Miller
Biden	Edwards	Murkowski
Bingaman	Enzi	Murray
Boxer	Feingold	Nelson (FL)
Breaux	Feinstein	Nelson (NE)
Brownback	Graham	Reed
Byrd	Hagel	Reid
Cantwell	Harkin	Roberts
Carnahan	Hatch	Rockefeller
Carper	Hollings	Sarbanes
Chafee	Hutchinson	Schumer
Cleland	Inhofe	Shelby
Clinton	Inouye	Smith (OR)
Collins	Jeffords	Snowe
Conrad	Johnson	Specter
Corzine	Kennedy	Stabenow
Craig	Kerry	Stevens
Crapo	Kohl	Torricelli
Daschle	Landrieu	Warner
Dayton	Leahy	Wellstone
DeWine	Levin	Wyden

NOT VOTING—1

Hutchison

The amendment (No. 2175) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2196

The PRESIDING OFFICER. Under the previous order, there are 4 minutes evenly divided with respect to the Gramm amendment.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, this is an amendment offered by the Senator from Texas, Mr. GRAMM. I strongly urge Members to not vote for it. It is unnecessary. There are actuarial reports required in this bill to the Congress, and financials are required annually. We will know well in advance of any potential problem that may occur in 20 years. This is a killer amendment. If it passes, we have to go to conference. That means no bill this year. I

urge Members not to support this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, the amendment is very simple. The amendment before us says you can invest the railroad retirement trust fund, you can invest it in stocks and bonds, but you cannot spend out of it until you have earned something on the investment.

Under the bill before us, you lower the amount of money going into the fund and you raise benefits before one penny is earned, before one investment is made, and in fact you take money out so quickly that you deplete 75 percent of the trust fund before the tax on railroads has to rise from 13.1 percent to over 22 percent in order to maintain absolute minimum solvency.

The amendment before us simply says invest the money, earn income on the money, use the income to lower taxes to fund railroad retirement and to increase benefits, but don't spend the trust fund's money, spend the earnings on the money. It is an eminently reasonable amendment. It is in no way a gutting amendment. If we could have gone to committee with a bill, I believe this would have been the solution. I understand my colleagues are for the bill, but I think this is a prudent way of doing it. Make the investments, do it exactly as the bill would do it, but don't spend the principal, spend the earnings. Don't do the things the bill calls for until you have the money in hand.

I think that is a simple principle. The people understand it. I would appreciate if they would vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BAUCUS. 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. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 21, nays 78, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—21

Allard	Fitzgerald	Lugar
Bond	Frist	McCain
Bunning	Gramm	McConnell
Burns	Gregg	Nickles
Campbell	Helms	Smith (NH)
Cochran	Kyl	Thomas
Ensign	Lott	Thompson

NAYS—78

Akaka	Bayh	Bingaman
Allen	Bennett	Boxer
Baucus	Biden	Breaux
Brownback	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Grassley	Nelson (NE)
Carnahan	Hagel	Reed
Carper	Harkin	Reid
Chafee	Hatch	Roberts
Cleland	Hollings	Rockefeller
Clinton	Hutchinson	Santorum
Collins	Inhofe	Sarbanes
Conrad	Inouye	Schumer
Corzine	Jeffords	Sessions
Craig	Johnson	Shelby
Crapo	Kennedy	Smith (OR)
Daschle	Kerry	Snowe
Dayton	Kohl	Specter
DeWine	Landrieu	Stabenow
Dodd	Leahy	Stevens
Domenici	Levin	Thurmond
Dorgan	Lieberman	Torricelli
Durbin	Lincoln	Voinovich
Edwards	Mikulski	Warner
Enzi	Miller	Wellstone
Feingold	Murkowski	Wyden

NOT VOTING—1

Hutchison

The amendment was rejected.

Mr. FITZGERALD. Mr. President, I would like to bring attention to one particular segment of the railroad industry—commuter rail. As a Senator from Illinois, I have had the opportunity to become very acquainted with the excellent commuter rail system that serves Chicago and northeastern Illinois. This system—Metra—is the second largest commuter rail system in the country and is a key part of the overall, growing, commuter rail industry. Metra employs between 2,500 and 3,000 workers, nearly all of whom are covered under the Railroad Retirement Board benefit plan.

The extent of commuter rail's growth over recent decades is made clear by looking at the number of workers that it employs. Nationally, roughly one-quarter of all rail employees work for commuter and passenger rail, and it is expected that this number will grow substantially in the future.

For these reasons, I believe commuter rail, because of its growing size, importance, and impact, should be represented on the Railroad Retirement Board of Trustees that is created by this bill. As this bill moves forward in the legislative process, I hope that I will be able to work with the chairman and ranking member of the Senate Finance Committee and other conferees to ensure that commuter rail is represented on the Board of Trustees.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Railroad Retirement and Survivors' Improvement Act of 2001. Finally, Congress is going to consider this important bill. I have been working to improve the benefits for our retired railroad workers for many years. Today, we can finally say that promises made are promises kept to our rail workers and their families.

The people who have made their contribution to family and to society by working on our Nation's railroads deserve a decent retirement. I know the job that railroad employees perform is very hard, very important work. Our country has an obligation to help those who have worked hard, saved, and played by the rules. That is why I am proud to have been a sponsor of Railroad Retirement Improvement legislation for many years and am proud to be a supporter of this bill.

I have been fighting to improve the benefits for railroad workers and their families since I was first elected to Congress. The retirement age for railroad workers and their spouses to qualify for railroad retirement benefits should be lowered. It is difficult for people and families to plan for their retirement in today's world, even with two salaries. That is why strengthening retirement benefits for all Americans has always been one of my highest priorities.

This bill is bipartisan. The House passed their version of this important bill by an overwhelming vote of 384–33. Seventy-four of my colleagues are cosponsors of the Senate version of the Railroad Retirement and Survivors' Improvement Act of 2001. The support for this measure is clear, and the time to act is now.

The Railroad Retirement and Survivor's Improvement Act expands benefits for the widows of rail employees and lowers the minimum retirement age at which employees with 30 years of experience are eligible for full retirement benefits to 60 years old. This legislation also reduces the number of years required to be fully vested for tier II benefits and expands the system's investment authority by creating an independent, non-governmental Railroad Retirement Trust Fund.

I urge all my colleagues to join me in standing up for our railroad retirees and their families and support this very important bill.

Mr. REID. I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DAY OF RECONCILIATION

Mr. REID. Senator BROWNBACK and Senator AKAKA have asked me to make this announcement. They have worked very hard on a piece of legislation which is now law, setting forth today as a National Day of Reconciliation. Members of the House of Representatives and the Senate are encouraged to attend. The meeting is taking place in the Rotunda of the Capitol as we speak. It just started. During assembly, Members of both Houses gather to seek the blessings of Providence for forgiveness, reconciliation, unity, and charity for all of the people of the United States, thereby assisting the Nation to realize its potential as a champion of hope, a vindicator of the

defenseless, and the guardian of freedom.

I hope all who are able will drop what they are doing and make themselves available at the Capitol Rotunda. It will go until 7 p.m. today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to a period of morning business with Senators permitted to speak for not to exceed 10 minutes each.

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

THE DEATH OF MRS. ELISABETH THURMOND OF NORTH AUGUSTA, SC

Mr. THURMOND. Mr. President, I rise today in remembrance of Mrs. Elisabeth T. Thurmond, my sister-in-law and a valued member of the community of North Augusta, SC, who passed away Friday, November 16, 2001, at the age of 90.

Elisabeth Thurmond, who was married to my late brother Dr. J. William Thurmond, will be remembered as a caring and generous woman. She was known for volunteering much of her time to serve the people of North Augusta and she made significant contributions to her community in a host of areas. For example, she was a charter member of Fairview Presbyterian Church and served in a variety of roles within the church, including as a trustee and a Sunday school teacher. Furthermore, Mrs. Thurmond worked to help improve the educational system of North Augusta. She was very active in school PTAs and served as the chairwoman of the North Augusta Parent Teacher Association Council that helped to establish the Paul Knox Educational Endowment Fund. In addition, she was a member of countless boards and councils and often held important leadership positions such as a seat on the Board of Directors of the North Augusta Chamber of Commerce. Clearly Elisabeth Thurmond lived a life full of civic accomplishment, and she was honored for her service as the 1981 North Augusta Citizen of the Year.

However, the impact of Mrs. Thurmond's good deeds were seen not only by the people of North Augusta but also across State lines. She was very active with the local chapter of the Girl Scouts of America for many years and, after serving as member of the Regional Board of Directors for the Girl Scouts of America, she was named a member of the national board of directors of the organization.

In conclusion, Mrs. Elisabeth Thurmond was a woman of character and integrity. She lived a life of great accomplishment and made wonderful contributions to the city and people of North Augusta. Our State is a better place because of all her hard work, and the impact she made in the lives of others will be felt long after her passing. She was a true American and a fine South Carolinian, and she will certainly be missed by a wide circle of friends.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 24, 2000 in Somerset, KY. Two women, while working as caretakers at a hospital, beat and abused a mentally retarded patient. The assailants, Valerie Hoskins and Crystal Wright, were indicted on criminal charges in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

CONGRATULATING IDAHO'S NATIONAL BOARD CERTIFIED TEACHERS

• Mr. CRAPO. Mr. President, I rise today to honor a very special group of educators in my home State of Idaho.

Last month, sixty-six teachers received a National Board Certification from the National Board for Professional Teaching Standards, the highest professional credential in the field of teaching. With the addition of these individuals, there are now 272 National Board Certified Teachers in Idaho.

High-quality teachers are the most important assets to any educational system. In order to gain a National Board Certification, these teachers voluntarily, often at great personal expense and sacrifice, submit to a nearly yearlong performance-based assessment. They must demonstrate their mastery in several areas including: Knowledge of subject matter; ability to effectively teach their subjects to students; and ability to manage and measure student learning. In fact, the State of Idaho recognizes teachers who gain a National Board Certification as ''master teachers.'' I commend these educators for the dedication and sacrifice it takes to successfully complete this program. Not only do they benefit in their teaching techniques, but Idaho's school children benefit through their dedication.

Each one of these teachers has touched countless lives of students. They have been diligent in the trust that has been given to them by parents throughout Idaho. It is appropriate that we honor them today and recognize how hard they have worked to achieve this certification. Sometimes these types of recognitions are only hung on walls, and that rarely provides the public acknowledgement of the achievement. For this reason, I wanted to rise today and share with the U.S. Senate how important this achievement is to the education of young Idahoans.

I ask that the names of the sixty-six Idahoans newly named as National Board Certified Teachers be printed in the RECORD following my statement.

The names follow:

Susan Alt, Boise, ID, Independent School District of Boise City, Early Childhood/Generalist.

Carleen Baldwin, Lapwai, ID, Lapwai, Middle Childhood/Generalist.

Arlene Balls, Soda Springs, ID, Soda Springs District 150, Early Adolescence/Science.

Devon Barker, Nezperce, ID, Nezperce Jt School District No. 302, Middle Childhood/Generalist.

Leslie Rae Bedke, Sugar City, ID, Sugar Salem School District 322, Early Adolescence/English Language Arts.

Marta Bidondo, Boise, ID, Meridian School District No. 2, Early Adolescence/Generalist.

Leah Bug-Townsend, Idaho Falls, ID, Idaho Falls School District 91, Early Adolescence/Social Studies-History.

Khrista Buschhorn, Aberdeen, ID, Aberdeen V, Early and Middle Childhood/English as a New Language.

William Dean, Post Falls, ID, Post Falls School District 273, Adolescence and Young Adulthood/English Language Arts.

Lisa Dreadfulwater, Nezperce, ID, Nezperce 302, Early Childhood/Generalist.

Julie Elliott, Tampa, ID, Nampa 131, Middle Childhood/Generalist.

Anne Marie Elmore, Bellevue, ID, Blaine County, Early Childhood/Generalist.

Joanna Ferris, Inkom, ID, Marsh Valley School District No. 21, Early Childhood/Generalist.

Paula Fisher, Boise, ID, Meridian Joint School District No. 2 Adolescence and Young Adulthood/English Language Arts.

Elaine Forsnes, Rexburg, ID, Madison 321, Adolescence and Young Adulthood/Mathematics.

Victoria Francis, Boise, ID, Independent School District of Boise, Early Adolescence through Young Adulthood/Career and Technical Education.

Janet Greer, Eagle, ID, Meridian School District, Adolescence and Young Adulthood/English Language Arts.

Victor Haight, Meridian, ID, Meridian School District, Early Adolescence through Young Adulthood/Art.

Connie Hawker, Pocatello, ID, School District 25, Early Childhood/Generalist.

Esther Kaye Henry, Rigby, ID, Joint School District No. 251, Adolescence and Young Adulthood/English Language Arts.

Nick Hoffman, Wallace, ID, Wallace 393, Adolescence and Young Adulthood/Science.

Katholyn Howell, Shelley, ID, Shelley School District 60, Middle Childhood/Generalist.

Susan Hufford, Boise, ID, Meridian School District, Early Adolescence/English Language Arts.

Laurel Jensen, Montpelier, ID, Bear Lake, Middle Childhood/Generalist.

Mari Knutson, Caldwell, ID, Caldwell School District 132, Middle Childhood/Generalist.

Christine Lawrence, Meridian, ID, Joint District 2, Meridian Idaho, Middle Childhood/Generalist.

Marietta Leitch, Nezperce, ID, Nezperce Joint School District No. 302, Early Childhood/Generalist.

Kim Lickley, Jerome, ID, Joint Jerome, Early Childhood/Generalist.

Eric Louis, Coeur D'alene, ID, Coeur D'alene 271, Adolescence and Young Adulthood/English Language Arts.

Denise Diane Martell, Idaho Falls ID, Idaho Falls 91, Early Childhood through Young Adulthood/Exceptional Needs Specialist.

Kristine Martin, Aberdeen, ID, Aberdeen, Middle Childhood/Generalist.

Terri Meyer, Potlatch, ID, Potlatch School District No. 285, Early Adolescence through Young Adulthood/Career and Technical Education.

Michelle Moore, Pocatello, ID, Pocatello School District 25, Early Childhood/Generalist.

Mary Morrisey, Boise, ID, Boise School District, Early Adolescence/English language Arts.

Jacklyn Mosman, Nezperce, ID, Nezperce Joint School District No. 302, Middle Childhood/Generalist.

Carol Ohrtman, Lewiston, ID, Independent School District No. 1, Adolescence and Young Adulthood/English Language Arts.

Maren Oppelt, Rupert, ID, Minidoka County, Adolescence and Young Adulthood/English Language Arts.

Catherine Pierce, St. Maries, ID, Joint Distr Ct 41, St. Maries, Early Childhood/Generalist.

Susan Pliler, Boise, ID, Independent School District of Boise City, Adolescence and Young Adulthood/English Language Arts.

B. Potter, Potlatch, ID, Potlatch School District #285, Adolescence and Young Adulthood/English Language Arts.

Lani Rembelski, Montpelier, ID, Bear Lake School 33, Early Childhood/Generalist.

Stan Richter, Jerome, ID, Jerome, Adolescence and Young Adulthood/Science.

Vikki Ricks, Rigby, ID, Jefferson 251, Middle Childhood/Generalist.

Douglas Rotz, Grand View, ID, Bruneau Grant View Joint 365, Middle Childhood/Generalist.

Laurie Sadler Rich, Paris, ID, Bear Lake School District 33, Early Childhood through Young Adulthood/Exceptional Needs Specialist.

Patrick Schmidt, Lewiston, ID, Lewiston Independent 1, Early Adolescence through Young Adulthood/Career and Technical Education.

Allan Schneider, Emmett, ID, Emmett School District 221, Adolescence and Young Adulthood/English Language Arts.

Thomas Seifert, Boise, ID, Meridian District, Adolescence and Young Adulthood/Social Studies-History.

Mary Sorger, ID, Boise, Middle Childhood/Generalist.

Julie Stafford, Moscow, ID, Moscow School District 281, Early Adolescence through Young Adulthood/Career and Technical Education.

Lois Standley, Bellevue, ID, Blain County School District No. 61, Early Childhood/Generalist.

Angela Stevens, Inkom, ID, Marsh Valley, Early Childhood/Generalist.

Lorraine Stewart, Shelley, ID, Joint School District No. 60, Adolescence and Young Adulthood/Social Studies-History.

Tammi Taylor Utter, Idaho Falls, ID, Idaho Falls School District 91, Middle Childhood/Generalist.

Portia Toobian-Bailey, Kamiah, ID, Kamiah Joint School District 304, Middle Childhood/Generalist.

Cheryl Tousley, Kooskia, ID, School District 241, Adolescence and Young Adulthood/English Language Arts.

Katherine Uhrig, Twin Falls, ID, Twin Falls, Middle Childhood/Generalist.

April Weber, Troy, ID, Whitepine School District 286, Early Adolescence/Social Studies-History.

Lynn Wessels, Nezperce, ID, Nezperce Joint School District No. 302, Early Childhood/Generalist.

Marlys Westra, Nampa, ID, Vallivue, Early Childhood/Generalist.

Dena Jill Whitesell, Twin Falls, ID, Twin Falls 411, Early Adolescence/English Language Arts.

Donna Wommack, Genesee, ID, Genesee Joint School District No. 282, Early Childhood/Generalist.

Norie Wyatt, Post Falls, ID, Post Falls, Early Childhood/Generalist.

Mary Yamamoto, Caldwell, ID, Caldwell, Middle Childhood/Generalist.

Pamala Young, Decio, ID, Cassia Joint 151, Adolescence and Young Adulthood/Social Studies History.●

THANKING MR. BERNARD MARCUS

● Mr. CLELAND. Mr. President, I would like to offer my thanks and appreciation to Mr. Bernard Marcus for his generous donation of $200 million for the construction of a five-million-gallon aquarium in the city of Atlanta, GA. This gift, made by the Marcus Foundation, is one of the largest single grants ever made by a private foundation and will provide the people of Georgia and those who visit our great State the opportunity to experience the wonders of aquatic and riparian wildlife. In addition to this most recent gesture of generosity, Mr. Marcus has contributed to causes ranging from the Centers for Disease Control and Prevention, vascular diseases, developmentally disabled children, and Jewish charities. Those who have benefitted from his benevolence know him to be a man dedicated to his community and friends. I thank him for his friendship and generosity and look forward to this exciting new addition to the City of Atlanta and the State of Georgia. At this time, I would like to ask that the text of two Atlanta Journal-Constitution articles be printed in the RECORD.

The articles follow:

[From the Atlanta Journal-Constitution, Nov. 20, 2001]

AQUARIUM ''WILL BE A GREAT MARVEL'' HOME DEPOT CHIEF PLEDGES $200 MILLION

(By Shelia M. Poole)

Home Depot Chairman Bernard Marcus promised that the huge Georgia Aquarium announced Monday would have ''no boundaries'' in offering top-notch entertainment and research opportunities for residents and visitors.

''It will be a great marvel,'' said Marcus, whose private Marcus Foundation will spend up to $200 million to build and endow the aquarium, which will be owned by the state.

The nonprofit aquarium—at 5 million gallons and 250,000 square feet—would be among the largest and most elaborate in the nation. It will contain freshwater and saltwater fish and mammals.

Marcus, the 72-year-old cofounder of Home Depot, said the aquarium is a way for him and his wife, Billi, to give back to the community in a way that is ''meaningful and will last past our lifetimes.''

The aquarium, to open in 2005, will be built on 15.5 acres adjacent to Atlantic Station, a planned $2 billion minicity under construction west of the Downtown Connector. When completed, the development will include apartments, condominiums, offices, shops and a 20-screen movie theater.

The site for the aquarium is just north of Atlantic Station, east of Mecaslin Street and south of Deering Road, near the former National Lead Industries site.

The developer of Atlantic Station, Jim Jacoby, who owns Marineland in Florida, is assisting in acquiring the property.

On Monday, representatives of state and local government, business, academia and the tourism and convention industry attended the announcement in the Georgia Capitol's Senate chamber.

Atlanta Mayor-elect Shirley Franklin called it ''a wonderful gift for the city.''

She said the aquarium would not only provide entertainment and education opportunities for residents, but also create a draw for tourists and conventioneers. City boosters have long decried the lack of attractions in downtown Atlanta.

Marcus' announcement effectively supersedes other efforts to build aquariums in Atlanta. At least two proposals had been floated to build aquariums at Stone Mountain Park and near Turner Field.

''We're not in business to compete,'' but to work toward getting quality recreation facilities in the area, said Thomas Dortch, chairman of the Atlanta-Fulton County Recreation Authority, which had tried for years to find financing and a downtown site for an aquarium. ''With the commitment from Mr. Marcus and the governor, we're excited about the fact there will be a world-class aquarium.''

The aquarium is still very much a work in progress, say those associated with it. There are no renderings, site plans or economic impact figures, although attendance is projected to be between 1.5 million and 2.5 million annually.

Don Harrison, a Home Depot spokesman, said Marcus planned to visit aquariums across the United States and elsewhere, including China. The design will be finalized over the next 18 months.

''Now is when all the work begins,'' said Harrison. The aquarium will be global in

scope, drawing researchers and visitors from around the world, he said. ''The world is, frankly, our target.''

Former Atlantan Jeffrey Swanagan, executive director and chief executive officer of the Florida Aquarium in Tampa, has been tapped to run the project. Swanagan spent 10 years as deputy director of Zoo Atlanta and was a protege of director Terry Maple.

Marcus first approached Gov. Roy Barnes about the project a year ago. The governor suggested Atlantic Station as a possible site. ''Location was key,'' Marcus said. ''In our minds it will become a destination to visitors.''

Already the city has museums, art galleries and theater. What it doesn't have, Marcus said, is an aquarium.

Dan Graveline—executive director of the Georgia World Congress Center—said, ''It will be a wonderful asset for the city. One of [the city's] biggest shortcomings is that convention[-goers] lack things to do in downtown Atlanta.''

The aquarium represents the largest donation to date from the Marcus Foundation and is a departure from previous endeavors, noted Harrison, the spokesman for Home Depot.

With the private funding, the Georgia aquarium will open with no debt. Other aquariums, typically funded by municipal bonds and saddled with enormous debt, have struggled to prosper. Many have had difficulty funding new exhibits critical to attracting repeat customers.

A notable exception is the Monterey Bay Aquarium in California. The aquarium, which opened in October 1984, was privately financed with a $55 million gift from David and Lucile Packard of the Hewlett-Packard fortune.

There were ''no bonds and no debt,'' said Ken Peterson, a spokesman for the Monterey Bay Aquarium, which attracts 1.8 million visitors annually and was expanded in 1996. ''When you're paying a mortgage plus your operating expenses, it doesn't leave a lot of extra revenue for developing special exhibitions or new exhibit galleries.''

Bob Masterson, president of Orlando-based Ripley Entertainment Inc., which operates aquariums in Myrtle Beach, S.C., and Gatlinburg, Tenn., said the size of the Atlanta Facility will make it expensive to operate.

''We spend about $30,000 a day to run the 1.3 million-gallon aquarium in Myrtle Beach and a little more than that in Gatlinburg,'' he said. ''With a 5 million-gallon tank, I'd guess it would cost at least $50,000 a day to operate. And if it fails, there is nothing else you can do with that building.''

[From the Atlanta Journal-Constitution, Nov. 20, 2001]

AN AQUARIUM FOR ATLANTA: GIANT FACILITY WILL INCREASE KNOWLEDGE ABOUT OCEANS

(By Charles Seabrook)

Call it the Atlanta Ocean.

A world-class aquarium in Atlanta will mean not only a place where people can marvel over ocean wonders, but also a place where scientists and students can unravel mysteries of the sea.

Understanding the oceans' workings is vital, scientists say, because the declining health of the world's seas has become a pressing public problem.

Dozens of ocean fish species are in peril because of overfishing, and marine biologists estimate that more than 25 percent of the coral reefs in the world's tropical oceans are sick or dying.

''If this aquarium is built the way it's envisioned, it will be wonderful not only for economic development but also for basic science,'' said Mark Hay, professor of environmental biology at Georgia Tech. ''It will be of immense importance for researchers.''

The Georgia Aquarium that Bernard Marcus, chairman of Home Depot, says he wants to build—spending up to $200 million—will hold more than 5 million gallons of water and encompass 250,000 square feet.

''People who may never travel to the coast will be able to come to Atlanta to learn the lessons of the sea,'' Hay said.

For scientists, the size and scope of the aquarium, scheduled for completion in 2005, means they may be able to conduct studies that cannot be done very well in laboratories.

''We can buy little tanks and put little creatures in them and observe them in our labs,'' Hay said.

But a large aquarium, he says, could accommodate complete ecosystems—such as a living coral reef—replete with large numbers of different creatures and plants and minerals.

Scientists say the ocean will never be fully understood until they understand how its ecosystems function.

The Georgia Aquarium will follow the lead of other major aquariums around the world. Scientific research is a basic mission at most of those institutions.

''We realize that health oceans are essential to our survival on Earth,'' says Ken Peterson of the Monterey Bay Aquarium in California.

''As an aquarium, we see our role as raising public awareness of the oceans and conducting research to help resolve the problems the oceans face.''

He notes that half the Earth's oxygen comes from the sea, and the only protein for more than a billion people is provided by the ocean.

''We believe it is important that people know that and know how important the oceans are for their survival,'' he says.

Jeffrey Swanagan, who has been tapped as the executive director of the aquarium, says a theme has not been chosen. ''But it will have a world focus, so that we can tell any freshwater or saltwater story,'' he says.

Swanagan, a Georgia Tech graduate who spent 10 years at Zoo Atlanta, said the ''value of research and conservation is very strong in me.''

Swanagan said he hopes the Georgia Aquarium will make people in Atlanta as familiar with the sea as they are with the Chattahoochee River.

''In Tampa, where I live now, kids take the sea for granted because it's all around them,'' he said. ''They think nothing of driving over a causeway and seeing dolphins jumping out the water. We want the people in Atlanta to have similar experiences, albeit it will be an indoor one.''

Swanagan, executive director of the Florida Aquarium, said he and his staff will be looking closely at aquariums all over the world to study their exhibits, planning and their public appeal.

Universities and other academic institutions in Georgia also are being asked for help in establishing a marine research program.

''We want an aquarium like no other,'' he says.

That means, he adds, that the aquarium might attempt to house sea creatures that have been heretofore difficult for other aquariums to maintain.

Some of those creatures, say marine biologists, include fish, squids and other animals that live deep in the ocean under tremendous pressures—and which have never been seen alive on land.

For Hay and other scientists, the aquarium will be the chance of a lifetime.

Hay helped build the renowned living coral reef aquarium at the Smithsonian Institution 20 years ago.

Many scientists said that facility could not be done because of all the requirements needed to keep the reef animals alive and healthy.

''We did have to learn as we went along,'' he said.

For instance, one scientist argued that a machine was needed to create wave patterns in the aquarium, but others argued that it was unnecessary.

The researchers found, however, that wave action is vital to maintaining a health coral reef system.

''So, designing and building a new aquarium will further our knowledge even more,'' he says.●

DEPARTING NATIONAL INSTITUTE OF MENTAL HEALTH DIRECTOR: DR. STEVEN E. HYMAN

● Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to commend Steven E. Hyman for his distinguished leadership at the National Institute of Mental Health at NIH for the past 5 years. Dr. Hyman will soon be turning his immense talents to his new duties as the Provost at Harvard University, and I wish him well in this new chapter of his outstanding career.

Steven Hyman was remarkably effective in bringing issues to the national agenda that for too long have met with shame and stigma. As a renowned neuroscientist, he used his considerable talent, reputation, and communication skills to demonstrate to the entire Nation the progress that is being made in understanding and healing mental illnesses. He worked closely with the Surgeon General in his efforts to bring this profoundly important message to the attention of the country.

It is because of efforts like these that we are closer than ever before to providing fair treatment for patients and their families, who have suffered from discrimination because mental illness for so long has been treated unfairly. Under Dr. Hyman's leadership, the NIMH has charted a bold course, initiating new clinical trials that will not exclude patients who are coping with difficulties so often associated with mental illness. He has insisted on including members of the public in the Institutes' research planning, including the groups reviewing grant applications. He has increased the Institute's research emphasis on areas of critical need, such as children and the elderly. He has worked skillfully to guarantee that greater effort is made to translate research into practice.

I know that the National Institute of Mental Health will miss Dr. Hyman's bold and brilliant presence, and so will the nation, as he takes up his eminent new position at Harvard I commend

him for his outstanding service to this country.●

TRIBUTE TO MAYOR BRUCE TOBEY

● Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to Bruce Tobey, the outstanding Mayor of Gloucester, MA, who is retiring at the end of this year. I join the people of Gloucester in expressing my deep appreciation for his commitment and dedication to the City of Gloucester and I thank him for his leadership and his friendship.

Mayor Tobey has been a strong and effective leader for Gloucester, working to improve opportunities for all of Gloucester's residents. Mayor Tobey took a particular interest in the fishing community. Fishing has been the lifeblood of Gloucester for nearly four hundred years, and Mayor Tobey has worked tirelessly to continue this proud tradition.

Mayor Tobey's leadership was especially significant in opening the Gloucester Fish Exchange. The Fish Exchange has been a major success as a site for fishermen to sell their fish and for buyers to view the fish. It is the second Fish Exchange to be established in the entire country. I commend the Mayor for his foresight and perseverance, which has made Gloucester's Fish Exchange such a resounding success.

Mayor Tobey has also worked skillfully to rehabilitate the State Fish Pier in Gloucester. New businesses on the pier, including the Cape Ann Seafood Center, a 50,000-square-foot seafood-processing center, are there today because of Mayor Tobey's leadership and dedication. New businesses on the pier have been essential in improving access to local seafood processing, and have also created numerous new jobs on the waterfront.

Mayor Tobey has also been a strong supporter of the Gloucester Fisheries Forum, a day-long symposium dedicated to the discussion of major fisheries issues. Year in and year out, this Forum has become a productive opportunity for members of the local fishing community to speak to leaders in the field and learn from them about the current challenges and future hopes for the fishing industry. Mayor Tobey understood the need to bring people together, and he did an outstanding job.

There has been no greater friend or supporter of these fishing communities than Mayor Tobey. We are grateful for his distinguished service to the City of Gloucester and to our state, and we're proud of his friendship. I know that his commitment to public service will continue in other ways, and he will be deeply missed.●

TRIBUTE TO MAYOR GERRY DOYLE OF PITTSFIELD

● Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to Gerry Doyle, the outstanding Mayor of Pittsfield, MA, who is retiring at the end of this year. He has been a wonderful mayor for the people of Pittsfield, and I know they join me in thanking him for his commitment and dedication to public service.

Mayor Doyle will long be remembered for his outstanding leadership in achieving an historic agreement to clean up the Housatonic River and the General Electric industrial site. He was the driving force behind this impressive agreement which protects the magnificent environmental heritage of the Berkshires and the public health of the entire community, and has laid a solid basis for future economic development in Pittsfield.

The settlement is one of the largest of its kind ever achieved in Massachusetts, Mayor Doyle won great progress for all the Berkshires by striking this all-important balance between economic development and environmental cleanup. The day this agreement was reached was the dawning of a new era for Pittsfield, and for that we will always be grateful to Mayor Doyle for his outstanding leadership.

Mayor Doyle has also done an outstanding job of increasing tourism in the Berkshires and in improving the quality of life for the people of Pittsfield. He's worked skillfully to improve transportation in the city, which in turn has helped attract new businesses to Pittsfield.

All of us in Massachusetts are grateful for Mayor Doyle's distinguished service to the City of Pittsfield and to our State, and we are grateful for his friendship. We know that his commitment to public service will continue in other ways, and he will be deeply missed.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 60

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:

As required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), I transmit herewith a 6-month periodic report on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 4, 2001*.

PERIODIC REPORT ON THE NATIONAL EMERGENCIES WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) AND KOSOVO—MESSAGE FROM THE PRESIDENT—PM 61

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:

As required by section 401(c) of the National emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a combined 6-month periodic report on the national emergencies declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) in Executive Order 12808 on May 30, 1992, and Kosovo in Executive Order 13088 on June 9, 1998.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 4, 2001*.

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:17 p.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. 717. An act to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies.

H.R. 2291. An act to extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

The enrolled bills were signed subsequently by the president pro tempore (Mr. BYRD).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1765. A bill to improve the ability of the United States to prepare for and respond to a biological threat or attack.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4796. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''4- Amino-6-(1, 1-dimethylethyl)-3 -(methylthio)-2, 2, 4-triazin-5(4H)—one (Metribuzin), Dichlobenil, Diphenylamine, Sulprofos, Pendimethalin, and Terbacil; Tolerance Actions'' (FRL6804-4) received on December 3, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4797. A communication from the Acting Assistant General Counsel for Regulatory Services, Office of the Chief Financial Officer, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Direct Grant Programs'' (RIN1890–AA02) received on November 29, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–4798. A communication from the Secretary of Labor, transmitting, pursuant to law, the Eighth Annual Report relative to Trade and Employment Effects of the Andean Trade Preference Act, November 2001; to the Committee on Finance.

EC–4799. A communication from the Assistant Secretary of Defense, Command, Control, Communications, and Intelligence, transmitting, pursuant to law, a report entitled ''Financial Addendum to Fiscal Year Department of Defense Chief Information Officer Annual Information Assurance Report''; to the Committee on Armed Services.

EC–4800. A communication from the Chairman of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, transmitting, pursuant to law, the Advance Executive Summary of the Third Annual Report of the Advisory Panel dated October 31, 2001; to the Committee on Armed Services.

EC–4801. A communication from the Acting Assistant Secretary of Land and Minerals Management, Engineering and Operations Division, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf-Revision of Requirements Governing Surety Bonds for Outer Continental Shelf Leases'' (RIN1010–AC68) received on November 29, 2001; to the Committee on Energy and Natural Resources.

EC–4802. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Utah Regulatory Program'' (UT–037–FOR) received on November 29, 2001; to the Committee on Energy and Natural Resources.

EC–4803. A communication from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Weatherization Assistance Program for Low-Income Persons'' (RIN1901–AB05) received on December 3, 2001; to the Committee on Energy and Natural Resources.

EC–4804. A communication from the Secretary of Labor, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the period April 1, 2001, through September 30, 2001; to the Committee on Governmental Affairs.

EC–4805. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–177, ''Parking Meter Fee Moratorium Temporary Act of 2001''; to the Committee on Governmental Affairs.

EC–4806. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–174, ''Chief Financial Officer Establishment Reprogramming During Non-Control Years Technical Temporary Amendment Act of 2001''; to the Committee on Governmental Affairs.

EC–4807. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–173, ''Sentencing Reform Technical Amendment Temporary Act of 2001''; to the Committee on Governmental Affairs.

EC–4808. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–170, ''Closing of a Portion of F Street, N.W., S.O. 99–70, Act of 2001''; to the Committee on Governmental Affairs.

EC–4809. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–172, ''Redevelopment Land Agency-RLA Revitalization Corporation Transfer Temporary Act of 2001''; to the Committee on Governmental Affairs.

EC–4810. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-169, ''Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2001''; to the Committee on Governmental Affairs.

EC–4811. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–184, ''Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2001''; to the Committee on Governmental Affairs.

EC–4812. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–183, ''Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Temporary Act of 2001''; to the Committee on Governmental Affairs.

EC–4813. A communication from the Chairman of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–182, ''Public Disclosure of Findings and Information in Cases of Child Fatality or Near Fatality Amendment Act of 2001''; to the Committee on Governmental Affairs.

EC–4814. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Full Approval of the Operating Permits Program; for the Pinal County Air Quality Control District, Arizona'' (FRL7112–8) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4815. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Arizona State Implementation Plan, Maricopa County Environmental Services Department'' (FRL7105–3) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4816. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Minnesota; Final Approval of State Underground Storage Tank Program'' (FRL7110–8) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4817. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Final Approval of Operating Permits Program; State of Vermont'' (FRL7110–2) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4818. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Illinois'' (FRL7111–1) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4819. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans, State of Missouri'' (FRL7110–5) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4820. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Illinois'' (FRL7107–9) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4821. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Illinois'' (FRL7108–8) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4822. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of the Implementation Plans; Illinois'' (FRL7107–7) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4823. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Final Full Approval of Operating Permit Program; Michigan'' (FRL7111–6) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4824. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Final Full Approval of 40 CFR Part 70 Operating Permits Program; Minnesota'' (FRL7111–7) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4825. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Final Full Approval of Operation Permit Program; Wisconsin'' (FRL7111–8) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4826. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Proposed Full Approval of 40 CFR Part 70 Operating Permits Program; Indiana'' (FRL7111–9) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4827. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Proposed Full Approval of 40 CFR Part 70 Operating Permits Program; Illinois'' (FRL7112–1) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4828. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Full Approval of Operating Permits Program; State of Hawaii'' (FRL7111–5) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4829. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Full Approval of Operating Permit Program; District of Columbia'' (FRL7112–3) received on November 29, 2001; to the Committee on Environment and Public Works.

EC–4830. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Full Approval of Operating Permit Program; Virginia'' (FRL7112–5) received on November 29, 2001; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 1233, a bill to provide penalties for certain unauthorized writing with respect to consumer products. (Rept. No. 107–106).

By Mr. INOUYE, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 3338: A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 1760. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program. and for other purposes; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. CAMPBELL, and Mr. BINGAMAN):

S. 1761. A bill to amend title XVIII of the Social Security Act to provide for coverage of cholesterol and blood lipid screening under the medicare program; to the Committee on Finance.

By Mr. JOHNSON:

S. 1762. A bill to amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1763. A bill to promote rural safety and improve rural law enforcement; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 1764. A bill to provide incentives to increase research by commercial, for-profit entities to develop vaccines, microbicides, diagnostic technologies, and other drugs to prevent and treat illnesses associated with a biological or chemical weapons attack; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. ALLEN, Mr. DASCHLE, Mr. BENNETT, Mr. AKAKA, Mr. BOND, Mr. BAUCUS, Mr. BROWNBACK, Mr. BAYH, Mr. BURNS, Mr. BIDEN, Mr. CAMPBELL, Mr. BINGAMAN, Mr. CHAFEE, Mr. BREAUX, Mr. COCHRAN, Mrs. CARNAHAN, Ms. COLLINS, Mr. CLELAND, Mr. CRAIG, Mrs. CLINTON, Mr. CRAPO, Mr. CORZINE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. GRASSLEY, Mr. DURBIN, Mr. HAGEL, Mr. EDWARDS, Mr. HUTCHINSON, Mrs. FEINSTEIN, Mrs. HUTCHISON, Mr. HARKIN, Mr. LUGAR, Mr. JEFFORDS, Mr. MCCONNELL, Mr. JOHNSON, Mr. MURKOWSKI, Mr. KERRY, Mr. ROBERTS, Ms. LANDRIEU, Mr. SANTORUM, Mr. LEAHY, Ms. SNOWE, Mr. LIEBERMAN, Mr. SPECTER, Mrs. LINCOLN, Mr. STEVENS, Ms. MIKULSKI, Mr. THOMAS, Mr. MILLER, Mr. THOMPSON, Mrs. MURRAY, Mr. THURMOND, Mr. NELSON of Florida, Mr. VOINOVICH, Mr. REED, Mr. WARNER, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. TORRICELLI, Mr. WELLSTONE, Mr. SCHUMER, Mr. DAYTON, Mr. HELMS, Mr. FITZGERALD, Mr. CONRAD, Mr. HATCH, and Ms. STABENOW):

S. 1765. A bill to improve the ability of the United States to prepare for and respond to a biological threat or attack; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE:

S. Res. 186. A resolution to authorize representation of Senator Lott in the case of Lee v. Lott; considered and agreed to.

ADDITIONAL COSPONSORS

S. 690

At the request of Mr. WELLSTONE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 690, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S. 724

At the request of Mr. BOND, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 724, a bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women.

S. 990

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 990, a bill to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1008

At the request of Mr. BYRD, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1008, a bill to amend the Energy Policy Act of 1992 to develop the United States Climate Change Response Strategy with the goal of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, while minimizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technological breakthroughs that make significant progress toward the goal of stabilization of greenhouse gas concentrations, to establish the National Office of Climate Change Response within the Executive Office of the President, and for other purposes.

S. 1209

At the request of Mr. BINGAMAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1248

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1248, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable, housing for low-income families, and for other purposes.

S. 1312

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1312, a bill to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach, Florida, for possible inclusion in the National Park System.

S. 1373

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 1373, a bill to protect the right to life of each born and preborn human person in existence at fertilization.

S. 1478

At the request of Mr. SANTORUM, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1609

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1609, a bill to amend the National Trails System Act to direct the Secretary of the Interior to conduct a study on the feasibility of designating the Metacomet-Monadnock-Mattabesett Trail extending through western Massachusetts and central Connecticut as a national historic trail.

S. 1618

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1618, a bill to enhance the border security of the United States, and for other purposes.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1707

At the request of Mr. JEFFORDS, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. 1738

At the request of Mr. KERRY, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1738, a bill to amend title XVIII of the Social Security Act to provide regulatory relief, appeals process reforms, contracting flexibility, and education improvements under the medicare program, and for other purposes.

S. 1745

At the request of Mrs. LINCOLN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mrs. MURRAY), the Senator from Georgia (Mr. CLELAND), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from New York (Mr . SCHUMER) were added as cosponsors of S. 1745, a bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals.

S. 1749

At the request of Mr. KENNEDY, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from New York (Mr. SCHUMER), the Senator from Nebraska (Mr. HAGEL), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1749 , a bill to enhance the border security of the United States, and for other purposes.

S. 1757

At the request of Mr. CRAIG, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1757, a bill to authorize an additional permanent judgeship in the district of Idaho, and for other purposes.

S.J. RES. 12

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S.J. Res. 12, a joint resolution granting the consent of Congress to the International Emergency Management Assistance Memorandum of Understanding.

AMENDMENT NO. 2152

At the request of Mr. DEWINE, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 2152 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

AMENDMENT NO. 2157

At the request of Mr. MCCAIN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of amendment No. 2157 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

AMENDMENT NO. 2202

At the request of Mr. CONRAD, his name was added as a cosponsor of amendment No. 2202.

STATEMENTS ON INTRODUCED BILLS AND JOINTS RESOLUTIONS

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 1760. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare Program, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the Seniors Mental Health Access Improvement Act of 2001 with my distinguished colleague from Arkansas, Mrs. LINCOLN. Specifically, the Seniors Mental Health Access Improvement Act of 2001 permits mental health counselors and marriage and family therapists to bill Medicare for their services. This will result in an increased choice of providers for seniors and enhance their ability to access mental health services in their communities.

This legislation is especially crucial to rural seniors who are often forced to travel long distances to utilize the services of mental health providers currently recognized by the Medicare program. Rural communities have difficulty recruiting and retaining providers, especially mental health providers. In many small towns a mental health counselor or a marriage and family therapist is the only mental health care provider in the area. Medicare law, as it exists today, compounds the situation because only psychiatrists, clinical psychologists, clinical social workers and clinical nurse specialists are able to bill Medicare for their services.

It is time the Medicare program recognized the qualifications of mental health counselors and marriage and family therapists as well as the critical role they play in the mental health care infrastructure. These providers go through rigorous training, similar to the curriculum of masters level social workers, and yet are excluded from the Medicare program.

Particularly troubling to me is the fact that seniors have disproportionally higher rates of depression and suicide than other populations. Additionally, 75 percent of the 518 nationally designated Mental Health Professional Shortage Areas are located in rural areas and one-fifth of all rural counties have no mental health services of any kind. Frontier counties have even more drastic numbers as 95 percent do not have a psychiatrist, 68 percent do not have a psychologist and 78 percent do not have a social worker. It is quite obvious we have an enormous task ahead of us to

reduce these staggering statistics. Providing mental health counselors and marriage and family therapists the ability to bill Medicare for their services is a key part of the solution.

Virtually all of my State of Wyoming is a mental health professional shortage area and will greatly benefit from this legislation. Wyoming has 169 psychologists, 121 psychiatrists, and 247 social workers for a total of 537 Medicare eligible mental health providers. Enactment of the Seniors Mental Health Access Improvement Act of 2001 will double the number of mental health providers available to seniors in my State with the addition of 517 mental health counselors and 55 marriage and family therapists currently licensed in the State.

In crafting this legislation Senator LINCOLN and I worked with numerous outside organizations with an interest in this issue. As a result of this collaboration, the ''Seniors Mental Health Access Improvement Act of 2001'' is strongly supported by the American Counseling Association, the Wyoming Counseling Association, the American Mental Health Counselors Association, the Arkansas Mental Health Counselors Association, the American Association for Marriage and Family Therapy, the Wyoming and Arkansas Chapters of the Association for Marriage and Family Therapy, the California Association of Marriage and Family Therapists, and the National Rural Health Association.

I believe this legislation is critically important to the health and well-being of our Nation's Seniors and I strongly urge all my colleagues to become a cosponsor.

Mr. President, I ask unanimous consent that the text of the bill and letters of endorsement from supporting organizations be printed in the RECORD.

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

S. 1760

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 ''Seniors Mental Health Access Improvement Act of 2001''.

SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—

(1) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by sections 102(a) and 105(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–468 and 2763A–471), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(A) in subparagraph (U), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (V)(iii), by inserting ''and'' after the semicolon at the end; and

(C) by adding at the end the following new subparagraph:

''(W) marriage and family therapist services (as defined in subsection (ww)(1)) and mental health counselor services (as defined in subsection (ww)(3));''.

(2) DEFINITIONS.—Section 1861 of such Act (42 U.S.C. 1395x), as amended by sections 102(b) and 105(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–468 and 2763A–471), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by adding at the end the following new subsection:

''Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

''(ww)(1) The term 'marriage and family therapist services' means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(2) The term 'marriage and family therapist' means an individual who—

''(A) possesses a master's or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

''(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

''(3) The term 'mental health counselor services' means services performed by a mental health counselor (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(4) The term 'mental health counselor' means an individual who—

''(A) possesses a master's or doctor's degree in mental health counseling or a related field;

''(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.''.

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

''(v) marriage and family therapist services and mental health counselor services;''.

(4) AMOUNT OF PAYMENT.—Section 1833(a)(1) of such Act (42 U.S.C. 1395*l*(a)(1)), as amended by sections 105(c) and 223(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–472 and 2763A–489), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(A) by striking ''and (U)'' and inserting ''(U)''; and

(B) by inserting before the semicolon at the end the following: '', and (V) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(W), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under clause (L)''.

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)) is amended—

(A) in paragraph (2)(A)(i)(II), by striking ''clauses (ii) and (iii)'' and inserting ''clauses (ii) through (iv)''; and

(B) by adding at the end of paragraph (2)(A) the following new clause:

''(iv) EXCLUSION OF CERTAIN MENTAL HEALTH SERVICES.—Services described in this clause are marriage and family therapist services (as defined in section 1861(ww)(1)) and mental health counselor services (as defined in section 1861(ww)(3)).''.

(6) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of such Act (42 U.S.C. 1395u(b)(18)(C)), as amended by section 105(d) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–472), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by adding at the end the following new clauses:

''(vii) A marriage and family therapist (as defined in section 1861(ww)(2)).

''(viii) A mental health counselor (as defined in section 1861(ww)(4)).''.

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by inserting '', by a marriage and family therapist (as defined in subsection (ww)(2)), by a mental health counselor (as defined in subsection (ww)(4)),'' after ''by a clinical psychologist (as defined by the Secretary)''.

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) of such Act (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting ''or a marriage and family therapist (as defined in subsection (ww)(2))'' after ''social worker''.

(c) AUTHORIZATION OF MARRIAGE AND FAMILY THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERVICES.—Section 1861(ee)(2)(G) of the Social Security Act (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting ''marriage and family therapist (as defined in subsection (ww)(2)),'' after ''social worker,''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2002.

AMERICAN COUNSELING ASSOCIATION,
Alexandria, VA, November 27, 2001.

Hon. CRAIG THOMAS,
U.S. Senate,
Washington, DC.

DEAR SENATOR THOMAS: I am writing on behalf of the American Counseling Association, which with over 53,000 members is the nation's largest non-profit membership organization representing state-licensed professional mental health counselors, to express our strong support for your legislation, the ''Seniors Mental Health Access Improvement Act of 2001''. We applaud your leadership in introducing this legislation.

Medicare's mental health benefit currently excludes two core mental health professions: licensed professional counselors and licensed marriage and family therapists. Statistics such as those included in the attached fact sheet show that Medicare beneficiaries are not getting the mental health treatment they need. Lack of access to providers is one of the primary factors involved.

As with other areas of health care, accessing mental health services is especially problematic in rural areas. In many underserved communities, licensed professional counselors are the only mental health specialists available. We feel strongly that proposals to improve rural Medicare beneficiaries' access to mental health care must include expanding the pool of covered providers. However, access to providers is not only a rural issue. An article cited on the enclosed fact sheet, recently published by the American Psychiatric Association, states that ''the supply of both specialists and resources cannot meet current or future demands'' for mental health treatment of older Americans.

Coverage of licensed professional counselors under Medicare is a common-sense step toward ensuring that all beneficiaries get the help they need. There are over 81,000 professional counselors licensed as master's level mental health professionals in Wyoming and 44 other states across the country. These providers meet education, training, and examination requirements on par with those of clinical social workers, who have been covered under Medicare for over ten years.

Thank you for your leadership in introducing this important legislation. We look forward to working with you to gain its enactment, and I urge you and your staff to call on us if we can be of any assistance.

Sincerely,

JANE GOODMAN,
President.

AMERICAN COUNSELING ASSOCIATION,
Alexandria, VA, November 27, 2001.

Hon. BLANCHE L. LINCOLN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LINCOLN: I am writing on behalf of the American Counseling Association, which with over 53,000 members is the nation's largest non-profit membership organization representing state-licensed professional mental health counselors, to express our strong support for your legislation, the ''Seniors Mental Health Access Improvement Act of 2001''. We applaud your leadership in introducing this legislation.

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Thank you for your leadership in introducing this important legislation. We look forward to working with you to gain its enactment, and I urge you and your staff to call on us if we can be of any assistance.

Sincerely,

JANE GOODMAN,
President.

WYOMING COUNSELING ASSOCIATION,
November 27, 2001.

Hon. CRAIG THOMAS,
U.S. Senate,
Washington, DC

DEAR SENATOR THOMAS: The Wyoming Counseling Association is pleased to convey its strong support of your legislation, the ''Seniors Mental Health Access Improvement Act of 2001''. We are proud of your leadership on mental health issues, as evidenced by your introduction of this and other legislation, and your support of S. 543, the ''Mental Health Equitable Treatment Act of 2001''.

Wyoming's residents often have only limited—if any—access to mental health professionals. There simply aren't enough providers. Given this fact, it makes no sense to continue to exclude licensed professional counselors from Medicare coverage, when similarly-trained providers are covered. In many parts of the state, licensed professional counselors are the only mental health specialists around.

We believe that establishing Medicare coverage of licensed professional counselors is a cost-effective means of improving the health and well-being of enrollees. The more than 500 professional counselors licensed in Wyoming should be allowed to help meet their mental health needs. It should jolt Congress into action to know that older Americans are the demographic group in the U.S. most at risk of committing suicide. This must be remedied.

Please let us know if there is anything we can do to assist you on mental health issues, and thank you again for your leadership, initiative, and hard work.

Sincerely,

KAREN ROBERTSON,
President.
DR. DAVID L. BECK,
Past-President.
LESLEY TRAVERS,
President-elect.

AMERICAN MENTAL HEALTH COUNSELORS ASSOCIATION,
Alexandria, VA, November 27, 2001.

Hon. CRAIG THOMAS,
U.S. Senate, Hart Senate Office Building,
Washington, DC

DEAR SENATOR THOMAS: I am writing on behalf of the American Mental Health Counselors Association (AMHCA) to express our strong support for the Seniors Mental Health Access Improvement Act, legislation to expand access to mental health providers in the Medicare program. As president of AMHCA and a Licensed Mental Health Counselor (LMHC), I commend you and Senator Lincoln for introducing this important legislation.

AMHCA is the nation's largest professional organization exclusively representing the mental health counseling profession. Our members practice in a variety of settings, including hospitals, community mental health centers, managed behavioral health care organizations, employee assistance plans, substance abuse treatment centers, and private practice. Currently, there are more than 80,000 licensed or certified professional counselors practicing in the United States, including many in rural areas where access to mental health care is often scarce.

As you know, Medicare covers the services of independently practicing psychiatrists, clinical psychologists, clinical social workers, and clinical nurse specialists, but does not recognize mental health counselors or marriage and family therapists as separately reimbursable mental health providers. Specifically, the Seniors Mental Health Access Improvement Act would correct this inequity by including mental health counselors and marriage and family therapists among the list of providers who can deliver mental health services to Medicare beneficiaries, provided they are legally authorized to deliver such care under state law. Enactment of this provision would increase access to and the availability of mental health services to Medicare beneficiaries, particularly for those seniors who reside in rural and underserved areas. The inclusion of mental health counselors and marriage and family therapists as Medicare providers would also afford beneficiaries greater choice among qualified providers.

Again, thank you for the leadership you have shown in introducing this legislation and for your commitment to ensuring greater access for seniors affected by mental illness. If I can be of assistance to you as you work towards the enactment of the Seniors Mental Health Access Improvement Act, please feel free to contact me. Beth Powell, AMHCA's Director of Public Policy and Professional Issues, is also available to assist you and your staff.

Sincerely,

MIDGE WILLIAMS,
President.

AMERICAN MENTAL HEALTH COUNSELORS ASSOCIATION,
Alexandria, VA, November 28, 2001

Hon. BLANCHE L. LINCOLN,
U.S. Senate, Dirksen Senate Office Building,
Washington, DC

DEAR SENATOR LINCOLN: I am writing on behalf of the American Mental Health Counselors Association (AMHCA) to express our strong support of the Seniors Mental Health Access Improvement Act, legislation to expand access to mental health providers in the Medicare program. As president of AMHCA and a Licensed Mental Health Counselor (LMHC), I commend you and Senator

Thomas for introducing this important legislation.

AMHCA is the nation's largest professional organization exclusively representing the mental health counseling profession. Our members practice in a variety of settings, including hospitals, community mental health centers, managed behavioral health care organizations, employee assistance plans, substance abuse treatment centers, and private practice. Currently, there are more than 80,000 licensed or certified professional counselors practicing in the United States, including many in rural areas where access to mental health care is often scarce. The Arkansas Mental Health Counselors Association (ArMHCA), a state chapter of AMHCA, represents the interests of mental health counselors practicing in your state.

As you know, Medicare covers the services of independently practicing psychiatrists, clinical psychologists, clinical social workers, and clinical nurse specialists, but does not recognize mental health counselors or marriage and family therapists as separately reimbursable mental health providers. Specifically, the Seniors Mental Health Access Improvement Act would correct this inequity by including mental health counselors and marriage and family therapists among the list of providers who can deliver mental health services to Medicare beneficiaries, provided they are legally authorized to deliver such care under state law. Enactment of this provision would increase access to and the availability of mental health services to Medicare beneficiaries, particularly for those seniors who reside in rural and underserved areas. The inclusion of mental health counselors and marriage and family therapists as Medicare providers would also afford beneficiaries greater choice among qualified providers.

Again, thank you for the leadership you have shown in introducing this legislation and for your commitment to ensuring greater access for seniors affected by mental illness. If I can be of assistance to you as you work towards the enactment of the Seniors Mental Health Access Improvement Act, please feel free to contact me. Beth Powell, AMHCA's Director of Public Policy and Professional Issues, is also available to assist you and your staff.

Sincerely,

MIDGE WILLIAMS,
President.

ARKANSAS MENTAL HEALTH COUNSELORS ASSOCIATION,
Jonesboro, AR, November 27, 2001.

Hon. BLANCHE L. LINCOLN,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LINCOLN: I am writing on behalf of the Arkansas Mental Health Counselors Association (ArMHCA) to express our strong support for the Seniors Mental Health Access Improvement Act and to convey our sincere appreciation to you for introducing this legislation. As a Licensed Professional Counselor (LPC) and a constituent, I want to express to you the importance of this legislation to LPCs in our state and to the nation's 39 million Medicare beneficiaries.

Mental health counselors-called Licensed Professional Counselor in Arkansas are mental health professionals with a master's or doctoral degree in counseling or related disciplines who provide services along a continuum of care. Currently, 45 states and the District of Columbia license or certify mental health counselors to independently provide mental health services, including the diagnosis and treatment of mental and emotional disorders. LPCs practice in a variety of settings, including hospitals, community mental health centers, managed behavioral health care organizations, employee assistance plans, substance abuse treatment centers, and private practice.

Medicare currently covers the services of independently practicing psychiatrists, clinical psychologists, clinical social workers, and clinical nurse specialists, however; it does not recognize mental health counselors or marriage and family therapists as separately reimbursable mental health providers. The Seniors Mental Health Access Improvement Act corrects this oversight by including mental Health counselors and marriage and family therapist among the list of providers who deliver mental health services to Medicare beneficiaries, provided they are legally authorized to perform the services under state law. Enactment of this provision would increase access to and the availability of mental health services to Medicare beneficiaries, particularly for those seniors who reside in rural and underserved area. The inclusion of mental health counselors and marriage and family therapists in the program would also afford beneficiaries a choice among qualified providers.

Again, thank you for the leadership you have shown in introducing this important legislation. If I can be of assistance to you as your work towards enactment of the Seniors Mental Health Improvement Access Act please feel free to contact me. Beth Powell, AMHCA's Director of Public and Professional Issues, is also available to assist you and your staff.

Sincerely,

DEE KERNODLE
President.

AMERICAN ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY,
Washington, DC, December 3, 2001.

Hon. CRAIG THOMAS,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR THOMAS: The American Association for Marriage and Family Therapy is writing on behalf of the 46,000 marriage and family therapists throughout the United States to commend you for sponsoring the Seniors Mental Health Access Improvement Act of 2001. This crucial legislation to expand the mental health benefits for our elderly will go a long way towards improving Medicare beneficiaries' access to critical mental health services provided by Marriage and Family Therapist (MFTs) and Mental Health Counselors (MHCs) across the nation.

As you know, mental illness is a major problem for many Americans, and particularly for the elderly. Research demonstrates that depression is disproportionately high among older persons, as is the incidence of suicide. The Surgeon General's Report on Mental Health has indicated that there are effective treatments for these and other mental illnesses. The Seniors Mental Health Access Improvement Act of 2001 helps make these treatments accessible to elderly citizens. By expanding the pool of qualified providers, the bill also achieves the important objective of increasing access to mental health services for elderly in rural areas, where there is a recognized shortage of professionals.

Passage of the Seniors Mental Health Access Improvement Act of 2001 will ensure that Medicare beneficiaries in need of mental health services will have the same freedom to choose a mental health professional available in their community as the non-Medicare population. The Archives of General Psychiatry projects that the number of people over 65 years with psychiatric disorders will increase from about 4 million in 1970 to 15 million in 2030. It also indicates that the current health care system is unprepared to meet the upcoming crisis in geriatric mental health. Providing access to licensed MFTs and MHCs will help ensure that there are an adequate number of providers available to meet the needs of the growing elderly population.

Your leadership and support to address the mental health needs of our seniors is greatly appreciated. It is about time the Medicare program is structured to respond to the demands of the elderly population it serves. AAMFT hopes the Seniors Mental Health Improvement Act of 2001 will become law. We look forward to working with you to meet this objective. Thank you again for your commitment to improving the lives of the elderly.

Sincerely,

DAVID M. BERGMAN,
Director of Legal and Government Affairs.

AMERICAN ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY,
Washington, DC, December 3, 2001.

Hon. BLANCHE LAMBERT LINCOLN,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LINCOLN: The American Association for Marriage and Family Therapy is writing on behalf of the 46,000 marriage and family therapists throughout the United States to commend you for sponsoring the Seniors Mental Health Access Improvement Act of 2001. This crucial legislation to expand the mental health benefits for our elderly will go a long way towards improving Medicare beneficiaries' access to critical mental health services provided by Marriage and Family Therapist (MFTs) and Mental health Counselors (MHCs) across the nation.

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Your leadership and support to address the mental health needs of our seniors is greatly

appreciated. It is about time the Medicare program is structured to respond to the demands of the elderly population it serves. AAMFT hopes the Seniors Mental Health Improvement Act of 2001 will become law. We look forward to working with you to meet this objective. Thank you again for your commitment to improving the lives of the elderly.

Sincerely,

DAVID M. BERGMAN,
Director of Legal and Government Affairs.

WYOMING ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY,
Jackson, WY, November 30, 2001.

Hon. CRAIG THOMAS,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR THOMAS: On behalf of the Wyoming Association for Marriage and Family Therapy, I want to thank you for agreeing to sponsor the Seniors Mental Health Improvement Act of 2001.

This important legislation will go a long way toward improving Medicare beneficiaries' access to critical mental health services in our state. As you know, more than 90 percent of Wyoming has been designated by the federal government as a mental health professional shortage area. By authorizing Medicare coverage for both Marriage and Family Therapists (MFTs) and Mental Health Counselors (MHCs), you are more than doubling the number of mental health professionals available to provide services to the Medicare population in these underserved areas.

Your legislation will also ensure that Wyoming beneficiaries in need of mental health services will have the same freedom to choose the mental health professional available in their community as the non-Medicare population. As you are aware, our state has already authorized MFTs to provide a wide range of mental health services covered by the Medicare program. Unfortunately, because Medicare does not currently recognize MFTs, Medicare beneficiaries must often travel hundreds of miles to be seen by a mental health professional who is recognized by the Medicare program. This, despite the fact that there may be a Marriage and Family Therapist in their community that the state has already deemed qualified to provide the covered services.

Your support for improved access to mental health services is greatly appreciated. We look forward to working with you on this important legislation. I would also personally like to send my best wishes to you and Susan and hope that all is well in Washington.

Sincerely,

CINDY KNIGHT
President.

ARKANSAS ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY,
December 1, 2001.

Hon. BLANCHE LAMBERT LINCOLN,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LINCOLN: I was part of a coalition of four mental health organizations that wrote to you last week on behalf of the Seniors Mental Health Improvement Act of 2001. However, I wanted to address that again with you specifically from the Arkansas Association for Marriage and Family Therapy. This is such an important piece of legislation on behalf of our aging population.

This important legislation will go a long way towards improving Medicare beneficiaries' access to critical mental health services in our state. As you know, more than 90 percent of Arkansas has been designated by the federal government as a mental health professional shortage area. By authorizing Medicare coverage for both Marriage and Family Therapists (MFTs) and Licensed Professional Counselors (LPCs) or Mental Health counselors (MHCs) you are more than doubling the number of mental health professionals available to provide services to the Medicare population in these under-served regions.

Your legislation will also ensure that Arkansas Medicare beneficiaries in need of mental health services will have the same freedom to choose the mental health professional available in their community as the non-Medicare population. As you are aware, our state has already authorized MFTs to provide a wide range of mental health services covered by the Medicare program. Unfortunately, because Medicare does not currently recognize MFTs, Medicare beneficiaries must often travel hundreds of miles to be seen by a mental health professional that is recognized by Medicare. In my practice, I am aware of long waits for seniors to see providers due to the few and the overload of those providers. This, despite the fact that there may be a Marriage and Family Therapist in their community that the state has already deemed qualified to provide the covered services.

Your support for improved access to mental health services is greatly appreciated. We look forward to working with you on this important legislation.

Sincerely,

DELL TYSON,
President.

NATIONAL RURAL HEALTH ASSOCIATION,
Kansas City, MO, December 3, 2001.

Hon. CRAIG THOMAS,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR THOMAS: On behalf of the National Rural Health Association, I would like to convey our strong support for the Seniors Mental Health Access Improvement Act of 2001.

While a lack of primary care services in rural and frontier areas has long been acknowledged, the scarcity of rural mental health services has only recently received increased attention. At the end of 1997, 76% of designated mental health professional shortage areas were located in non-metropolitan areas with a total population of over 30 million Americans. Currently there is an increased need for intervention by mental health care professionals to help people cope with the aftermath of the September 11 terrorist attacks as well as the ongoing war on terrorism. Because there is less access to mental health care in rural America, rural residents will have a subsequent lack of professional guidance in dealing with the recent trauma experienced by our country.

The Seniors Mental Health Access Improvement Act of 2001 would help provide increased access to mental health car services in rural and frontier areas by allowing Licensed Professional Counselors and Marriage and Family Therapists to bill Medicare for their services and be paid 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist.

The membership of the NRHA appreciates your bringing attention to the critical issue of access to mental health care in rural areas as well as your ongoing leadership on rural health issues. The NRHA stands ready to work with you on enactment of the Seniors Mental Health Access Improvement Act of 2001, which would help to increase the availability of mental health care in rural and frontier areas.

Sincerely,

CHARLOTTE HARDT,
President.

NATIONAL RURAL HEALTH ASSOCIATION,
Kansas City, MO, December 3, 2001.

Hon. BLANCHE LINCOLN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

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Sincerely,

CHARLOTTE HARDT,
President.

CALIFORNIA ASSOCIATION OF MARRIAGE AND FAMILY THERAPISTS,
San Diego, CA, November 19, 2001.

Re Medicare Legislation to Recognize Marriage and Family Therapists and Professional Counselors.

Hon. CRAIG THOMAS,
U.S. Senate, Washington, DC.

DEAR SENATOR THOMAS: We are writing to you in recognition and support of your willingness to cosponsor legislation that would dramatically improve access to mental health services for Medicare beneficiaries. By adding licensed marriage and family therapists and licensed professional counselors, it will open many opportunities within Medicare for patients to locate and receive therapy from appropriately trained and qualified professionals.

On behalf of the 24,500 members of the California Association of Marriage and Family

Therapists, we support your willingness to co-sponsor this legislation. Under California law, licensed marriage and family therapists are legally authorized to provide mental health services and are reimbursed by most all third party payers for the diagnosis and treatment of mental disorders. However, because Medicare does not recognize this particular discipline, California licensed marriage and family therapists are precluded from providing these services and Medicare beneficiaries are precluded from utilizing marriage and family therapists to provide mental health counseling and treatment.

Marriage and family therapists are considered one of the five ''core mental health professions'' recognized by the federal government. Unfortunately, however, we are the only core mental health profession not recognized by Medicare.

We appreciate and thank you for you willingness to take on the challenge of sponsoring legislation to make LMFTs and LPCs eligible for reimbursement by Medicare.

Sincerely,

MARY RIEMERSMA,
Executive Director.

CALIFORNIA ASSOCIATION OF
MARRIAGE AND FAMILY THERAPISTS,
San Diego, CA, November 19, 2001.

Re Medicare Legislation to Recognize Marriage and Family Therapists and Professional Counselors.

Hon. BLANCHE LINCOLN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LINCOLN: We are writing to you in recognition and support of your willingness to cosponsor legislation that would dramatically improve access to mental health services for Medicare beneficiaries. By adding licensed marriage and family therapists and licensed professional counselors, it will open many opportunities within Medicare for patients to locate and receive therapy from appropriately trained and qualified professionals.

On behalf of the 24,500 members of the California Association of Marriage and Family Therapists, we support your willingness to co-sponsor this legislation. Under California law, licensed marriage and family therapists are legally authorized to provide mental health services and are reimbursed by most all third party payers for the diagnosis and treatment of mental disorders. However, because Medicare does not recognize this particular discipline, California licensed marriage and family therapists are precluded from providing these services and Medicare beneficiaries are precluded from utilizing marriage and family therapists to provide mental health counseling and treatment.

Marriage and family therapists are considered one of the five ''core mental health professions'' recognized by the federal government. Unfortunately, however, we are the only core mental health profession not recognized by Medicare.

We appreciate and thank you for you willingness to take on the challenge of sponsoring legislation to make LMFTs and LPCs eligible for reimbursement by Medicare.

Sincerely,

MARY RIEMERSMA,
Executive Director.

Mrs. LINCOLN. Mr. President, I am pleased to join my colleague Senator THOMAS today in introducing the Seniors Mental Health Access Improvement Act of 2001.

This bill would expand Medicare coverage to licensed professional counselors and licensed marriage and family therapists. One result of this expanded coverage will be to increase seniors' access to mental health services, especially in rural and underserved areas.

Licensed professional counselors and marriage and family therapists are currently excluded from Medicare coverage even though they meet the same education, training, and examination requirements that clinical social workers do. The only difference is that clinical social workers have been covered under Medicare for over a decade.

Why do we need this legislation? The mental health needs of older Americans are not being met. Although the rate of suicide among older Americans is higher than for any other age group, less than three percent of older Americans report seeing mental health professionals for treatment. And going to their primary care physician is simply not enough. Research shows that most primary care providers receive inadequate mental health training, particularly in geriatrics.

Lack of access to mental health providers is one of the primary reasons why older Americans don't get the mental health treatment they need. Not surprisingly, this problem is exacerbated in rural and underserved areas.

Licensed professional counselors are often the only mental health specialists available in rural and underserved communities. This is true in my home State of Arkansas, where 91 percent of Arkansans reside in a mental health professional shortage area.

Since there are more licensed professional counselors practicing in my State than any other mental health professional, this legislation will significantly increase the number of Medicare—eligible mental health providers in Arkansas. Licensed professional counselors are already serving patients who have private insurance or Medicaid. It is time for Medicare patients to also have access to these professionals.

The bill we are introducing today is an important first step in expanding access to good mental health. By including licensed professional counselors and licensed marriage and family therapists among the list of providers who deliver mental health services to Medicare beneficiaries, we will help ensure that all seniors, no matter where they live, have the opportunity to receive mental health treatment.

By Mr. DORGAN (for himself, Mr. CAMPBELL, and Mr. BINGAMAN):

S. 1761. A bill to amend title XVII of the Social Security Act to provide for coverage of cholesterol and blood lipid screening under the Medicare Program; to the Committee on Finance.

Mr. DORGAN. Mr. President, today I am introducing the Medicare Cholesterol Screening Coverage Act of 2001, along with my colleagues Mr. CAMPBELL and Mr. BINGAMAN. This bipartisan legislation, which also has been introduced in the House of Representatives, would add blood cholesterol screening as a covered benefit for Medicare beneficiaries.

The most recent guidelines from the National Heart, Lung and Blood Institute recommends that all Americans over the age of 20 be screened for high cholesterol. Yet current Medicare policy only covers cholesterol testing for patients who already have heart disease, stroke or other disorders associated with elevated cholesterol levels. Thus, enactment of this bill will help save lives of the approximately one-third of Medicare recipients not already covered for cholesterol testing.

High cholesterol is a major risk factor for heart disease and stroke, the Nation's number 1 and number 3 killers of both men and women. Cardiovascular disease kills nearly a million people each year in this country, more than the next seven leading causes of death combined. In particular, Americans over the age of 65 have the highest rate of coronary heart disease, CHD, in the Nation and about 80 percent of the deaths from CHD occur in this age group. It is not surprising that cardiovascular diseases account for one-third of all Medicare's spending for hospitalizations.

Obviously, in order to slow the onset of CHD, it is first necessary to identify those with elevated cholesterol, which is why passage of this bill is so critical. The importance of identifying those at risk for CHD is illustrated by the results of just released research from Oxford University. This study showed that in elderly people, lowering of cholesterol was associated with a one-third reduction in heart attack and stroke and a substantially reduced need for surgery to repair or open clogged arteries.

Clearly, this bill can save lives. Yet despite the importance of identifying this major, changeable risk factor for cardiovascular disease, screening for cholesterol is not covered by Medicare. I have felt for a long while that our health care system, and Medicare in particular, needs to place a greater emphasis on preventative health care. Implementation of the measures in this bill can potentially decrease the incidence of cardiovascular disease resulting in reduced illness, debilitation and death. Early detection of illness is often an important factor in successful treatment and has been effective in reducing long-term health care costs.

Previously, Congress in its wisdom, has acted to provide for other screening tests including bone mass measurement, and screenings for glaucoma and for colorectal, prostate and breast cancer. Now we must take another step in the right direction by extending Medicare coverage for cholesterol screening.

It is only right that the Congress do what it can to help implement the guidelines of the National Heart, Lung and Blood Institute, and it is only right that we provide these benefits for all Medicare recipients. I urge my Senate colleagues to join me in cosponsoring this piece of legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1761

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 ''Medicare Cholesterol Screening Coverage Act of 2001''.

SEC. 2. MEDICARE COVERAGE OF CHOLESTEROL AND BLOOD LIPID SCREENING.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking ''and'' at the end of subparagraph (U);

(B) by adding ''and'' at the end of subparagraph (V); and

(C) by adding at the end the following new subparagraph:

''(W) cholesterol and other blood lipid screening tests (as defined in subsection (ww)(1));''; and

(2) by adding at the end the following new subsection:

''Cholesterol and Other Blood Lipid Screening Test

''(ww)(1) The term 'cholesterol and other blood lipid screening test' means diagnostic testing of cholesterol and other lipid levels of the blood for the purpose of early detection of abnormal cholesterol and other lipid levels.

''(2) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency and type of cholesterol and other blood lipid screening tests for individuals who do not otherwise qualify for coverage for cholesterol and other blood lipid testing based on established clinical diagnoses.''.

(b) FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (H);

(2) by striking the semicolon at the end of subparagraph (I) and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(J) in the case of a cholesterol and other blood lipid screening test (as defined in section 1861(ww)(1)), which is performed more frequently than is covered under section 1861(ww)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2003.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1763. A bill to promote rural safety and improve rural law enforcement; to the Committee on Finance.

Mr. DASCHLE. Mr. President, in the weeks since September 11, we've heard a lot about homeland security. Right now, we're working to make our Nation's infrastructure more secure, our food and water supply safer, and to improve our government's ability to respond to chemical and biological weapons attacks.

To me, homeland security also means giving all of our Nation's law enforcement officers the tools and training they need to do their jobs. And that means recognizing that law enforcement in rural America has its own unique set of challenges: rural law enforcement officers patrol larger areas, and operate under tighter budgets with smaller staffs, than most of their urban and suburban counterparts.

In States like South Dakota, often, just a handful of people are responsible for patrolling an entire county. Law enforcement officers respond to a lot of calls alone, and often have to communicate with each other by cell phone. Backup can be several hours away. Yet we expect the same quality of service, and we demand lower crime rates.

I believe Washington can and must do a better job of helping rural law enforcement do their work. That is why I am proud to join my colleague and friend, Senator TIM JOHNSON, in introducing the Rural Safety Act of 2001.

While TIM and I are the ones introducing this bill, we want to thank all of the South Dakota sheriffs with whom we've spoken whose ideas and experiences are incorporated within it. For my part, I'd like to recognize: Sheriff Mike Milstead of Minnehaha County, Sheriff Mark Milbrandt of Brown County, Sheriff Leidholt of Hughes County, Chief Al Aden of Pierre, Chief Duane Heeney of Yankton, Chief Ken Schwab of my hometown, Aberdeen, Chief Doug Feltman of Mitchell; and Chief Craig Tieszen of Rapid City.

One theme I've heard repeated on visit after visit is this: Washington needs to do a better job working with State and local law enforcement agencies. To me, that means building on what we know works, and developing new initiatives that respond to the special law enforcement challenges of small towns and rural communities. To that end, this bill does six things: First, it builds on our success with the COPS program. COPS has enabled South Dakota communities to hire more than 300 law enforcement officers. Across the country, it's added more than 100,000 new officers to the ''thin blue line.'' Under this proposal, rural communities that hire officers through the COPS program will be eligible for federal funding to keep those offices on for a fourth year.

Second, because rural law enforcement officers have to cover such large areas, rural law enforcement agencies arguably have a greater need for advanced communications equipment than many urban and suburban departments, but have fewer resources to purchase them. Recently, I received a letter from Sgt. Marty Goetsch in the Lawrence County Sheriff's Office in Deadwood, SD. He told me that his office, and its staff of 11, are ''very much behind in the available technology.'' This bill provides funds to help rural communities obtain things like mobile data computers and dash-mounted video cameras. It will also provide additional funds for training to use new technologies.

Third, this bill will establish a Rural Policing Institute as a way to help rural law enforcement officers upgrade their skills and tactics.

Fourth, it will expand and improve the 9-1-1 emergency assistance systems in rural areas. Many of us take for granted that in an emergency, we can call 9-1-1, and help will be there. In rural and remote areas, the nearest help may be miles away. We need to make sure that people in rural areas can rely on a modern, integrated system of communication between law enforcement, and fire and other safety officials. The Rural Safety Act will provide the resources to finish the job and develop a seamless 9-1-1 system all across America.

Fifth, the bill will help communities create ''restorative justice'' for first-time, non-violent juvenile offenders. These programs offer victims the opportunity to confront youthful offenders and require that these offenders make meaningful restitution to their victims. In many cases, that will meet our societal goals more effectively and more efficiently that costly incarceration.

Sixth, it will enable us to stop the spread of ''meth'' now, before it becomes a crisis. A study released last year by the Center on Addiction and Substance Abuse at Columbia University shows that eighth graders living in rural communities are 104 percent more likely to have used amphetamines, including methamphetamine. We need to stop the use of all of these drugs, but in rural America, meth is particularly addictive, and devastatingly destructive. This proposal will increase prevention and treatment of meth use, and cleanup of meth labs that have been discovered and shut down.

Seventh and finally, our plan will offer gun owners tax credits to purchase gun safes. It will also provide law enforcement agencies with resources to buy and install gun safes or gun storage racks for officers' homes. I don't believe Washington should restrict the right of law-abiding citizens to own guns. But if gun owners want help in preventing accidental gun tragedies, I believe Washington can, and should, help.

When we talk about homeland security, I believe we need to think about the law enforcement needs of those who live in America's rural areas. That is what this bill does, and that is why I encourage all of my colleagues to support it.

By Mr. LIEBERMAN:

S. 1764. A bill to provide incentives to increase research by commercial, for-profit entities to develop vaccines, microbicides, diagnostic technologies, and other drugs to prevent and treat illnesses associated with a biological or chemical weapons attack; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, America has a major flaw in its defenses against bioterrorism. Recent hearings I chaired in the Government Affairs Committee on bioterrorism demonstrated that America has not made a national commitment to research and development of treatments and cures for those who might be exposed to or infected by a biological agent or chemical toxin. Correcting this critical gap is the purpose of legislation I am introducing today.

Obviously, our first priority must be to attempt to prevent the use of these agents and toxins by terrorists, quickly assess when an attack has occurred, take appropriate public health steps to contain the exposure, stop the spread of contagion, and then detoxify the site. These are all critical functions, but in the end we must recognize that some individuals may be exposed or infected. Then the critical issue is whether we can treat and cure them and prevent death and disability.

We need a diversified portfolio of medicines. In cases where we have ample advance warning of an attack and specific information about the agent or toxin, we may be able to vaccinate the vulnerable population in advance. In other cases, even if we have a vaccine, we might well prefer to use medicines that would quickly stop the progression of the disease or the toxic effects. We also need a powerful capacity quickly to develop new countermeasures where we face a new agent or toxin.

Unfortunately, we are woefully short of vaccines and medicines to treat individuals who are exposed or infected. We have antibiotics that seem to work for most of those infected in the current anthrax attack, but these have not prevented five deaths. We have no effective vaccines or medicines for most other biological agents and chemical toxins we might confront. In some cases we have vaccines to prevent, but no medicines to treat, an agent. We have limited capacity to speed the development of vaccines and medicines to prevent or treat novel agents and toxins not currently known to us.

We have provided, and should continue to provide, direct Federal funding for research and development of new medicines, however, this funding is unlikely to be sufficient. Even with ample Federal funding, many private companies will be reluctant to enter into agreements with government agencies to conduct this research. Other companies would be willing to conduct the research with their own capital and at their own risk but are not able to secure the funding from investors.

The legislation I introduce today would provide incentives for private biotechnology companies to form capital to develop countermeasures, medicines, to prevent, treat and cure victims of bioterror attacks. This will enable this industry to become a vital part of the national defense infrastructure and do so for business reasons that make sense for their investors on the bottom line.

Enactment of these incentives is necessary as most biotech companies have no approved products or revenue from product sales to fund research. They rely on investors and equity capital markets to fund the research. They must necessarily focus on research that will lead to product sales and revenue and, thus, to an end to their dependence on investor capital. There is no established or predictable market for countermeasures. Investors are justifiably reluctant to fund this research, which will present challenges similar in complexity to AIDS. Investors need assurances that research on countermeasures has the potential to provide a rate of return commensurate with the risk, complexity and cost of the research, a rate of return comparable to that which may arise from a treatment for cancer, MS, Cystic Fibrosis and other major diseases.

It is in our national interest to enlist these companies in the development of countermeasures as biotech companies tend to be innovative and nimble and intently focused on the intractable diseases for which no effective medical treatments are available.

The incentives I have proposed are innovative and some may be controversial. I invite everyone who has an interest and a stake in this research to enter into a dialogue about the issue and about the nature and terms of the appropriate incentives. I have attempted to anticipate the many complicated technical and policy issues that this legislation raises. The key focus of our debate should be how, not whether, we address this critical gap in our public health infrastructure and the role that the private sector should play. Millions of Americans will be at risk if we fail to enact legislation to meet this need.

My proposal is complimentary to legislation on bioterrorism preparedness sponsored by Senators FRIST and KENNEDY. Their bill, the Bioweapons Preparedness Act of 2001, S. 1715, focuses on many needed improvements in our public health infrastructure. It builds on their proposal in the 106th Congress, S. 2731, and H.R. 4961, sponsored by Congressman RICHARD BURR.

Among the provisions in these bills are initiatives on improving bioterrorism preparedness capacities, improving communication about bioterrorism, protection of children, protection of food safety, and global pathogen surveillance and response. The Senate Appropriations Committee reported legislation to appropriate the funds for the purposes authorized in the Frist-Kennedy proposal and that was incorporated in the stimulus package pending in the Senate before the Thanksgiving recess.

Title IV of their bill includes provisions to expand research on biological agents and toxins, as well as new treatments and vaccines for such agents and toxins. Since the effectiveness of vaccines, drugs, and therapeutics for many biological agents and toxins often may not ethically be tested in humans, the bill ensures that the Food and Drug Administration, FDA, will finalize by a date certain its rule regarding the approval of new countermeasures on the basis of animal data. Priority countermeasures will also be given enhanced consideration for expedited review by the FDA. They rely on the authority, through an existing Executive Order, to ensure indemnification of sponsors who supply vaccines to the Government. And the bill provides a limited antitrust exemption to allow potential sponsors to discuss and agree upon how to develop, manufacture, and produce new countermeasures, including vaccines, and drugs. Federal Trade Commission and the Department of Justice approval of such agreements is required to ensure such agreements are not anti-competitive.

My legislation builds on these provisions by providing incentives to enable the biotechnology industry acting on its own initiative to fund and conduct research on countermeasures. It includes tax, procurement, intellectual property and liability incentives. Accordingly, my proposal raises issues falling within the jurisdiction of the HELP, Finance, and Judiciary Committees.

The Frist-Kennedy bill and my bill are complimentary. We do need to conform the two bills to one another on some issues: the bills have different definitions of the term ''countermeasure,'' my bill gives the Director of Homeland Defense authority over the countermeasure list whereas the Secretary of Health and Human Services would have authority under Frist/Kennedy, and my bill establishes a ''purchase fund'' and Frist-Kennedy is a ''stockpile.'' The best, most comprehensive approach would be to meld the two bills together.

The bottom line is that we need both bills, one focusing on public health and one focusing on medical research. Without medical research, public health workers will not have the single most important tool to use in an attack, medicine to prevent death and disability and medicine that will help us avoid public panic.

We are fortunate that we have broad-spectrum antibiotics including Cipro to treat the type of anthrax to which so many have been exposed. This treatment seems to be effective before the anthrax symptoms become manifest, and effective to treat cutaneous anthrax, and we have been able to effectively treat some individuals who have inhalation anthrax. I am thankful that this drug exists to treat those who have been exposed, including my own Senate staff. Our offices are immediately above those of Senator DASCHLE.

We have seen how reassuring it is that we have an effective treatment for this biological agent. We see long lines of Congressional staffers and postal workers awaiting their Cipro. Think what it would be like if we could only say, ''We have nothing to treat you and hope you don't contract the disease.'' Think of the public panic that we might see.

I am grateful that this product exists and proud of the fact that the Bayer Company is based in Connecticut. The last thing we should be doing is criticizing this company for their research success. The company has dispensed millions of dollars worth of Cipro free of charge. Criticizing it for the price that it charges tells other research companies that the more valuable their products are in protecting the public health, the more likely they are to be criticized and bullied.

It is fortuitous that Cipro seems to be effective against anthrax. The product was not developed with this use in mind. My point with this legislation is we cannot rely on good fortune and chance in the development of countermeasures. We need to make sure that these countermeasures will be developed. We need more companies like Bayer, we need them focused specifically on developing medicines to deal with the new bioterror threat, and we need to tell them that there are good business reasons for this focus.

We also are fortunate to have an FDA-licensed vaccine, made by BioPort Corporation, that is recommended by our country's medical experts at the DOD and CDC for pre-anthrax exposure vaccination of individuals in the military and some individuals in certain laboratory and other occupational settings where there is a high risk of exposure to anthrax. This vaccine is also recommended for use with Cipro after exposure to anthrax to give optimal and long-lasting protection. That vaccine is not now available for use. We must do everything necessary to make this and other vaccines available in adequate quantities to protect against future attacks. But the point of this legislation is that we need many more Cipro-like and antrax vaccine-like products. That we have these products is the good news; that we have so few others is the problem.

One unfortunate truth in this debate is that we cannot rely upon international legal norms and treaties alone to protect our citizens from the threat of biological or chemical attack.

The United States ratified the Biological and Toxin Weapons Convention, BWC, on January 22, 1975. That Convention now counts 144 nations as parties. Twenty-two years later, on April 24, 1997, the United States Senate joined 74 other countries when it ratified the Chemical Weapons Convention, CWC. While these Conventions serve important purposes, they do not in any way guarantee our safety in a world with rogue states and terrorist organizations.

The effectiveness of both Conventions is constrained by the fact that many countries have failed to sign on to either of them. Furthermore, two signatories of the BWC, Iran and Iraq, are among the seven governments that the Secretary of State has designated as state sponsors of international terrorism, and we know for a fact that they have both pursued clandestine biological weapons programs. The BWC, unlike the CWC, has no teeth, it does not include any provisions for verification or enforcement. Since we clearly cannot assume that any country that signs on to the Convention does so in good faith, the Convention's protective value is limited.

On November 1 of this year, the President announced his intent to strengthen the BWC as part of his comprehensive strategy for combating terrorism. A BWC review conference, held every 5 years to consider ways of improving the Convention's effectiveness, will convene in Geneva beginning November 19. In anticipation of that meeting, the President has urged that all parties to the Convention enact strict national criminal legislation to crack down on prohibited biological weapons activities, and he has called for an effective United Nations procedure for investigating suspicious outbreaks of disease or allegations of biological weapons use.

These steps are welcomed, but they are small. Even sweeping reforms, like creating a more stringent verification and enforcement regime, would not guarantee our safety. The robust verification and enforcement mechanisms in the CWC, for instance, have proven to be imperfect, and scientists agree that it is much easier to conceal the production of biological agents than chemical weapons.

The inescapable fact, therefore, is that we cannot count on international regimes to prevent those who wish us ill from acquiring biological and chemical weapons. We must be prepared for the reality that these weapons could fall into the hands of terrorists, and could be used against Americans on American soil. And we must be prepared to treat the victims of such an attack if it were ever to occur.

On November 26, the Centers for Disease Control issued its interim working draft plan for responding to an outbreak of smallpox. The plan does not call for mass vaccination in advance of a smallpox outbreak because the risk of side effects from the vaccine outweighs the risks of someone actually being exposed to the smallpox virus. At the heart of the plan is a strategy sometimes called ''search and containment.''

This strategy involves identifying infected individual or individuals with confirmed smallpox, identifying and locating those people who come in contact with that person, and vaccinating those people in outward rings of contact. The goal is to produce a buffer of immune individuals and was shown to prevent smallpox and to ultimately eradicate the outbreak. Priorities would be set on who is vaccinated, perhaps focusing on the outward rings before those at the center of the outbreak. The plan assumes that the smallpox vaccination is effective for persons who have been exposed to the disease as long as the disease has not taken hold.

In practice it may be necessary to set a wide perimeter for these areas because smallpox is highly contagious before it might be diagnosed. There may be many areas subject to search and containment because people in our society travel frequently and widely. Terrorists might trigger attacks in a wide range of locations to multiply the confusion and panic. The most common form of smallpox has a 30-percent mortality rate, but terrorists might be able to obtain supplies of ''flat-type'' smallpox with a mortality rate of 96 percent and hemorrhagic-type smallpox, which is almost always fatal. For these reasons, the CDC plan accepts the possibility that whole cities or other geographic areas could be cordoned off, letting no one in or out, a quarantine enforced by police or troops.

The plan focuses on enforcement authority through police or National Guard, isolation and quarantine, mandatory medical examinations, and rationing of medicines. It includes a discussion of ''population-wide quarantine measures which restrict activities or limit movement of individuals [including] suspension of large public gatherings, closing of public places, restriction on travel [air, rail, water, motor vehicle, and pedestrian], and/or 'cordon sanitaire' [literally a 'sanitary cord' or line around a quarantined area guarded to prevent spread of disease by restricting passage into or out of the area].'' The CDC recommends that States update their laws to provide authority for ''enforcing quarantine measures'' and it recommends that States in ''pre-event planning'' identify ''personnel who can enforce these isolation and quarantine measures, if necessary.'' Guide C, Isolation and Quarantine, page 17.

On October 23, 2001, the CDC published a ''Model State Emergency Health Powers Act.'' It was prepared by the Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities, in conjunction with the National Governors Association, National Conference of State Legislatures, Association of State and Territorial Health Officials, National Association of City and County Health Officers, and National Association of Attorneys General. A copy of the model law is printed at www.publichealthlaw.net. The law would provide powers to enforce the ''compulsory physical separation, including the restriction of movement or confinement, of individuals and/or groups believed to have been exposed to or known to have been infected with a contagious disease from individuals who are believed not to have been exposed or infected, in order to prevent or limit the transmission of the disease to others.'' Federal law on this subject is very strong and the Administration can always rely on the President's Constitution authority as Commander in Chief.

Let us try to imagine, however, what it would be like if a quarantine is imposed. Let us assume that there is not enough smallpox vaccine available for use in a large outbreak, that the priority is to vaccinate those in the outward rings of the containment area first, that the available vaccines cannot be quickly deployed inside the quarantined area, that it is not possible to quickly trace and identify all of the individuals who might have been exposed, and/or that public health workers themselves might be infected. We know that there is no medicine to treat those who do become infected. We know the mortality rates. It is not hard to imagine how much force might be necessary to enforce the quarantine. It would be quite unacceptable to permit individuals to leave the quarantined area no matter how much panic had taken hold.

Think about how different this scenario would be if we had medicines that could effectively treat and cure those who become infected by smallpox. We still might implement the CDC plan but a major element of the strategy would be to persuade people to visit their local clinic or hospital to be dispensed their supply of medicine. We could trust that there would be a very high degree of voluntary compliance. This would give us more time, give us options if the containment is not successful, give us options to treat those in the containment area who are infected, and enable us to quell the public panic.

Because we have no medicine to treat those infected by smallpox, we have to be prepared to implement a plan like the one CDC has proposed. Theirs is the only option because our options are so limited. We need to expand our range of options.

We should not be lulled by the apparent successes with Cipro and the strains of anthrax we have seen in the recent attacks. We have not been able to prevent death in some of the patients with late-stage inhalation anthrax and Robert Stevens, Thomas Morris Jr., Joseph Curseen, Kathy Nguyen, and Ottilie Lundgren have died. This legislation is named in honor of them. What we needed for them, and did not have, is a drug or vaccine that would treat late stage inhalation anthrax.

As I have said, we need an effective treatment for those who become infected with smallpox. We have a vaccine that effectively prevents smallpox infection, and administering this vaccine within four days of first exposure has been shown to offer some protections against acquiring infection and significant protection against a fatal outcome. The problem is that administering the vaccine in this time frame to all those who might have been exposed may be exceedingly difficult. And once infection has occurred, we have no effective treatment options.

In the last century 500 million people have died of smallpox, more than have from any other infectious diseases, as compared to 320 million deaths in all the wars of the twentieth century. Smallpox was one of the diseases that nearly wiped out the entire Native American population in this hemisphere. The last naturally acquired case of smallpox occurred in Somalia in 1977 and the last case from laboratory exposure was in 1978.

Smallpox is a nasty pathogen, carried in microscopic airborne droplets inhaled by its victims. The first signs are headache, fever, nausea and backache, sometimes convulsions and delirium. Soon, the skin turns scarlet. When the fever lets up, the telltale rash appears, flat red spots that turn into pimples, then big yellow pustules, then scabs. Smallpox also affects the throat and eyes, and inflames the heart, lungs, liver, intestines and other internal organs. Death often came from internal bleeding, or from the organs simply being overwhelmed by the virus. Survivors were left covered with pockmarks, if they were lucky. The unlucky ones were left blind, their eyes permanently clouded over. Nearly one in four victims died. The infection rate is estimated to be 25–40 percent for those who are unvaccinated and a single case can cause 20 or more additional infections.

During the 16th Century, 3.5 million Aztecs, more than half the population, died of smallpox during a 2-year span after the Spanish army brought the disease to Mexico. Two centuries later, the virus ravaged George Washington's troops at Valley Forge. And it cut a deadly path through the Crow, Dakota, Sioux, Blackfoot, Apache, Comanche and other American Indian tribes, helping to clear the way for white settlers to lay claim to the western plains. The epidemics began to subside with one of medicine's most famous discoveries: the finding by British physician Edward Jenner in 1796 that English milkmaids who were exposed to cowpox, a mild second cousin to smallpox that afflicts cattle, seemed to be protected against the more deadly disease. Jenner's work led to the development of the first vaccine in Western medicine. While later vaccines used either a killed or inactivated form of the virus they were intended to combat, the smallpox vaccine worked in a different way. It relied on a separate, albeit related virus: first cowpox and the vaccinia, a virus of mysterious origins that is believed to be a cowpox derivative. The last American was vaccinated back in the 1970s and half of the U.S. population has never been vaccinated. It is not known how long these vaccines provide protection, but it is estimated that the term is 3–5 years.

In an elaborate smallpox biowarfare scenario enacted in February 1999 by the Johns Hopkins Center for Civilian Biodefense Studies, it was projected that within 2 months 15,000 people had died, epidemics were out of control in fourteen countries, all supplies of smallpox vaccine were depleted, the global economy was on the verge of collapse, and military control and quarantines were in place. Within twelve months it was projected that eighty million people worldwide had died.

A single case of smallpox today would become a global public health threat and it has been estimated that a single smallpox bioterror attack on a single American city would necessitate the vaccination of 30–40 million people.

The U.S. Government is now in the process of purchasing substantial stocks of the smallpox vaccine. We then face a very difficult decision on deploying the vaccine. We know that some individuals will have an adverse reaction to this vaccine. No one in the United States has been vaccinated against smallpox in 25 years. Those that were vaccinated back then may not be protected against the disease today. If we had an effective treatment for those who might become infected by smallpox, we would face much less pressure regarding deploying the vaccine. If we face a smallpox epidemic from a bioterrorism attack, we will have no Cipro to reassure the public and we will be facing a highly contagious disease and epidemic. To be blunt, it will make the current anthrax attack look benign by comparison.

Smallpox is not the only threat. We have seen other epidemics in this century. The 1918 influenza epidemic provides a sobering admonition about the need for research to develop medicines.

In 2 years, a fifth of the world's population was infected. In the United States the 1918 epidemic killed more than 650,000 people in a short period of time and left 20 million seriously ill, one-fourth of the entire population. The average lifespan in the U.S. was depressed by ten years. In just 1 year, the epidemic killed 21 million human beings worldwide—well over twice the number of combat deaths in the whole of World War I. The flu was exceptionally virulent to begin with and it then underwent several sudden and dramatic mutations in its structure. Such mutations can turn flu into a killer because its victims' immune systems have no antibodies to fight off the altered virus. Fatal pneumonia can rapidly develop.

Another deadly toxin, ricin toxin, was of interest to the al-Qaeda terrorist network. At an al-Qaeda safehouse in Saraq Panza, Kabul reporters found instructions for making ricin. The instructions make chilling reading. ''A certain amount, equal to a strong dose, will be able to kill an adult, and a dose equal to seven seeds will kill a child,'' one page reads. Another page says: ''Gloves and face mask are essential for the preparation of ricin. Period of death varies from 3–5 days minimum, 4–14 days maximum.'' The instructions listed the symptoms of ricin as vomiting, stomach cramps, extreme thirst, bloody diarrhoea, throat irritation, respiratory collapse and death.

No specific treatment or vaccine for ricin toxin exists. Ricin is produced easily and inexpensively, highly toxic, and stable in aerosolized form. A large amount of ricin is necessary to infect whole populations, the amount of ricin necessary to cover a 100-km^2 area and cause 50 percent lethality, assuming aerosol toxicity of 3 mcg/kg and optimum dispersal conditions, is approximately 4 metric tons, whereas only 1 kg of Bacillus anthracis is required. But it can be used to terrorize a large population with great effect because it is so lethal.

Use of ricin as a terror weapon is not theoretical. In 1991 in Minnesota, 4 members of the Patriots Council, an extremist group that held antigovernment and antitax ideals and advocated the overthrow of the U.S. Government, were arrested for plotting to kill a U.S. marshal with ricin. The ricin was produced in a home laboratory. They planned to mix the ricin with the solvent dimethyl sulfoxide, DMSO, and then smear it on the door handles of the marshal's vehicle. The plan was discovered, and the 4 men were convicted. In 1995, a man entered Canada from Alaska on his way to North Carolina. Canadian custom officials stopped the man and found him in possession of several guns, $98,000, and a container of white powder, which was identified as ricin. In 1997, a man shot his stepson in the face. Investigators discovered a makeshift laboratory in his basement and found agents such as ricin and nicotine sulfate. And, ricin was used by the Bulgarian secret police when they killed Georgi Markov by stabbing him with a poison umbrella as he crossed Waterloo Bridge in 1978.

Going beyond smallpox, influenza, and ricin, we do not have an effective vaccine or treatment for dozens of other deadly and disabling agents and toxins. Here is a partial list of some of the other biological agents and chemical toxins for which we have no effective treatments: clostridium botulinum toxin, botulism; francisella tularensis, tularaemia; Ebola hemorrhagic fever, Marbug hemorrhagic fever, Lassa fever, Julin, Argentine hemorrhagic fever; Coxiella burnetti, Q fever; brucella species, brucellosis; burkholderia mallei, glanders; Venezuelan encephalomyelitis, eastern and western equine encephalomyelitis, epsilon toxin of clostridium perfringens, staphylococcus entretoxin B, salmonella species, shigella dysenteriae, escherichia coli O157:H7, vibrio cholerae, cryptosporidium parvum, nipah virus, hantaviruses, tickborne hemorrhagic fever viruses, tickborne encephalitis virus, yellow fever, nerve agents, tabun, sarin, soman, GF, and VX; blood agents, hydrogen cyanide and cyanogens chloride; blister agents, lewisite, nitrogenadn sulfur mustards, and phosgene oxime; heavy metals, arsenic, lead, and mercury; and volatile toxins, benzene, chloroform, trihalomethanes; pulmonary agents, Phosgene, chlorine, vinly chloride; and incapacitating agents, BZ.

The naturally occurring forms of these agents and toxins are enough to cause concern, but we also know that during the 1980s and 1990s the Soviet Union conducted bioweapons research at 47 laboratories and testing sites, employed nearly 50,000 scientists in the work, and that they developed genetically modified versions of some of these agents and toxins. The goal was to develop an agent or toxin that was particularly virulent or not vulnerable to available antibiotics.

The United States has publicly stated that five countries are developing biological weapons in violation of the Biological Weapons convention, North Korea, Iraq, Iran, Syria, and Libya, and stated that additional countries not yet named, possibly including Russia, China, Israel, Sudan and Egypt, are also doing so as well.

What is so insidious about biological weapons is that in many cases the symptoms resulting from a biological weapons attack would likely take time to develop, so an act of bioterrorism may go undetected for days or weeks. Affected individuals would seek medical attention not from special emergency response teams but in a variety of civilian settings at scattered locations. This means we will need medicines that can treat a late stage of the disease, long after the infection has taken hold.

We must recognize that the distinctive characteristic of biological weapons is that they are living micro-organisms and are thus the only weapons that can continue to proliferate without further assistance once released in a suitable environment.

The lethality of these agents and toxins, and the panic they can cause, is quite frightening. The capacity for terror is nearly beyond comprehension. I do not believe it is necessary to describe the facts here. My point is simple: we need more than military intelligence, surveillance, and public health capacity. We also need effective medicines. We also need more powerful research tools that will enable us to quickly develop treatments for agents and toxins not on this or any other list.

We need to do whatever it takes to be able to reassure the American people that hospitals and doctors have powerful medicines to treat them if they are exposed to biological agents or toxins, that we can contain an outbreak of an infectious agent, and that there is little to fear. To achieve this objective, we need to rely on the entrepreneurship of the biotechnology industry.

There is already some direct funding of research by the Defense Advanced Research Projects Agency, DARPA, the National Institutes of Health, NIH, and the Centers for Disease Control, CDC. This research should go forward.

DARPA, for instance, has been described as the Pentagon's ''venture capital fund,'' its mission to provide seed money for novel research projects that offer the potential for revolutionary findings. Last year, DARPA's Unconventional Pathogen Countermeasures program awarded contracts totalling $50 million to universities, foundations, pharmaceutical and biotechnology companies seeking new ways to fight biological agents and toxins.

The Unconventional Pathogen Countermeasures program now funds 43 separate research efforts on antibacterials, anti-toxins, anti-virals, decontamination, external protection from pathogens, immunization and multi-purpose vaccines and treatments. A common thread among many of these undertakings is the goal of developing drugs that provide broad-spectrum protection against several different pathogens. This year, with a budget of $63 million, the program has received over 100 research proposals in the last two months alone.

Some of this DARPA research is directed at developing revolutionary, broad-spectrum, medical countermeasures against significantly pathogenic microorganisms and/or their pathogenic products. The goal is to develop countermeasures that are

versatile enough to eliminate biological threats, whether from natural sources or modified through bioengineering or other manipulation. The countermeasures would need the potential to provide protection both within the body and at the most common portals of entry, e.g., inhalation, ingestion, transcutaneous. The strategies might include defeating the pathogen's ability to enter the body, traverse the bloodstream or lymphatics, and enter target tissues; identifying novel pathogen vulnerabilities based on fundamental, critical molecular mechanisms of survival or pathogenesis, e.g., Type III secretion, cellular energetics, virulence modulation; constructing unique, robust vehicles for the delivery of countermeasures into or within the body; and modulating the advantageous and/or deleterious aspects of the immune response to significantly pathogenic microorganisms and/or the pathogenic products in the body

While DAPRA's work is specifically aimed at protecting our military personnel, the National Institutes of Health also spent $49.7 million in the last fiscal year to find new therapies for those who contract smallpox and on systems for detecting the disease. In recent years, NIH's research programs have sought to create more rapid and accurate diagnostics, develop vaccines for those at risk of exposure to biological agents, and improve treatment for those infected. Moreover, in the last fiscal year, the Centers for Disease Control has allocated $18 million to continue research on an anthrax vaccine and $22.4 million on smallpox research.

Some companies are willing to enter into a research relationships funded by DARPA and other agencies to develop countermeasures. Relationships between the Government and private industry can be very productive, but they can also involve complex issues reflecting the different cultures of government and industry. Some companies, including some of the most entrepreneurial, might prefer to take their own initiative to conduct this research. Relationships with government entities involve risks, issues, and bureaucracy that are not present in relationships among biotechnology companies and between them and non-governmental partners.

The Defense Departments Joint Vaccine Acquisition Program, JVAP, illustrates the problems with a government led and managed program. A report in December 2000 by a panel of independent experts found that the current program ''is insufficient and will fail'' and recommended it adopt an approach more on the model of a private sector effort. It needs to adopt ''industry practices,'' ''capture industry interest,'' ''implement an organizational alignment that mirrors the vaccine industry's short chain of command and decision making,'' ''adopt an industry-based management philosophy,'' and ''develop a sound investment strategy.'' It bemoaned the ''extremely limited'' input from industry in the JVAP program.

It is clear from this experience that we should not rely exclusively on government funding of countermeasures research. We should take advantage of the entrepreneurial fervor, and the independence, of our biotechnology industry entrepreneurs. It is not likely that the Government will be willing or able to provide sufficient funding for the development of the countermeasures we need. Some of the most innovative approaches to vaccines and medicines might not be funded with the limited funds available to the Government. We need to provide incentives that will encourage every biotech company to review its research priorities and technology portfolio for its relevance and potential for countermeasure research. Some of this research is early stage, basic research that is being developed and considered only for its value in treating an entirely different disease. We need to kindle the imagination of biotechnology companies and their tens of thousands of scientists regarding countermeasures research.

My proposal would supplement direct Federal government funding of research with incentives that make it possible for private companies to form the capital to conduct this research on their own initiative, utilizing their own capital, and at their own risk, all for good business reasons going to their bottom line.

The U.S. biotechnology industry, approximately 1,300 companies, spent $13.8 billion on research last year. Only 350 of these companies have managed to go public. The industry employs 124,000, Ernest & Young data, people. The top five companies spent an average of $89,000 per employee on research, making it the most research-intensive industry in the world. The industry has 350 products in human clinical trials targeting more than 200 diseases. Losses for the industry were $5.8 billion in 2001, $5.6 billion in 2000, $4.4 billion in 1999, $4.1 billion in 1998, $4.5 billion in 1997, $4.6 billion in 1996, and similar amounts before that. In 2000 fully 38 percent of the public biotech companies had less than 2 years of funding for their research. Only one-quarter of the biotech companies in the United States are publicly traded and they tend to be the best funded.

There is a broad range of research that could be undertaken under this legislation. Vaccines could be developed to prevent infection or treat an infection from a bioterror attack. Broad-spectrum antibiotics are needed. Also, promising research has been undertaken on antitoxins that could neutralize the toxins that are released, for example, by anthrax. With anthrax it is the toxins, not the bacteria itself, that cause death. An antitoxin could act like a decoy, attaching itself to sites on cells where active anthrax toxin binds and then combining with normal active forms of the toxin and inactivating them. An antitoxin could block the production of the toxin.

We can rely on the innovativeness of the biotech industry, working in collaboration with academic medical centers, to explore a broad range of innovative approaches. This mobilizes the entire biotechnology industry as a vital component of our national defense against bioterror weapons.

The legislation takes a comprehensive approach to the challenges the biotechnology industry faces in forming capital to conduct research on countermeasures. It includes capital formation tax incentives, guaranteed purchase funds, patent protections, and liability protections. I believe we will have to include each of these types of incentives to ensure that we mobilize the biotechnology industry for this urgent national defense research.

I am aware that all three of the tax incentives I have proposed, and both of the two patent incentives I have proposed, may be controversial. In my view, we can debate tax or patent policy as long as you want, but let's not lose track of the issue here, development of countermeasures to treat people infected or exposed to lethal and disabling bioterror weapons.

We know that incentives can spur research. In 1983 we enacted the Orphan Drug Act to provide incentives for companies to develop treatments for rare diseases with small potential markets deemed to be unprofitable by the industry. In the decade before this legislation was enacted, fewer than 10 drugs for orphan diseases were developed and these were mostly chance discoveries. Since the Act became law, 218 orphan drugs have been approved and 800 more are in the pipeline. The Act provides 7 years of market exclusivity and a tax credit covering some research costs. The effectiveness of the incentives we have enacted for orphan disease research show us how much we can accomplish when we set a national priority for certain types of research.

The incentives I have proposed differ from those set by the Orphan Drug Act. We need to maintain the effectiveness of the Orphan Drug Act and not undermine it by adding many other disease research targets. In addition, the tax credits for research for orphan drug research have no value for most biotechnology companies because few of them have tax liability with respect to which to claim the credit. This explains why I have not proposed to utilize tax credits to spur countermeasures research. It is also clear that the market for countermeasures is even more speculative than the market

for orphan drugs and we need to enact a broader and deeper package of incentives.

The Government determines which research is covered by the legislation. The legislation confers on the Director of the Office of Homeland Security, in consultation with the Secretary of Defense and Secretary of Health and Human Services, authority to set the list of agents and toxins with respect to which the legislation applies. The Director determines which agents and toxins present a threat and on whether the countermeasures are more likely to be developed with the application of the incentives of the legislation. The Director may determine that an agent or toxin does not present a threat or that countermeasures are not more likely to be developed with the incentives. The legislation includes an illustrative list of agents and toxins that might be selected by the Director. The decisions of the Director are final and cannot be subject to judicial review.

Once the list of agents and toxins is set, companies may register with the Food and Drug Administration their intent to undertake research and development of a countermeasure to prevent or treat the agent or toxin. This registration is required only for companies that seek to be eligible for the tax, purchase, patent, and liability provisions of the legislation. The registration does not apply to non-profit entities or to companies that do not seek such eligibility. The registration requirement gives the FDA vital information about the research effort and the personnel involved with the research.

The Director of the Office of Homeland Security then may certify that the company is eligible for the tax, purchase, patent, and liability incentives in the legislation. Eligibility for the purchase fund, patent and liability incentives is contingent on successful development of a countermeasure according to the standards set in the legislation.

The legislation contemplates that a company might well register and seek certification with respect to more than one research project and become eligible for the tax, purchase, patent, and liability incentives for each. There is no policy rationale for limiting a company to one registration and one certification.

This process is similar to the current registration process for research on orphan, rare, diseases. In that case, companies that are certified by the FDA become eligible for both tax and market exclusivity incentives. This process gives the Government complete control on the number of registrations and certifications. This gives the Government control over the cost and impact of the legislation on private sector research.

The legislation includes three tax incentives to enable biotechnology companies to form capital to fund research and development of countermeasures. Companies must irrevocably elect only one of the incentives with regard to the research. These tax incentives are available only to biotechnology companies with less than $750,000,000 in paid-in capital.

The paid-in capital of a corporation is quite distinct from the market capitalization of the firm. The paid-in capital is the aggregate amount paid by investors into the corporation when this stock was issued, the price at issue multiplied by the number of shares sold. The market capitalization is the value of this stock in the stock market as it is traded among investors. I have focused on the paid-in capital as this is the amount of capital actually available to the corporation to fund its research.

The legislation includes three different tax incentives to give companies flexibility in forming capital to fund the research. Each of the options comes with advantages and limitations that may make it appropriate or inappropriate for a given company or research project. We do not now know fully how investors and capital markets will respond to the different options, but we assume that companies will consult with the investor community about which option will work best for a given research project. Capital markets are diverse and investors have different needs and expectations. Over time these markets and investor expectations evolve. If companies register for more than one research project, they may well utilize different tax incentives for the different projects.

Companies are permitted to undertake a series of discrete and separate research projects and make this election with respect to each project. They may only utilize one of the options with respect to each of these research projects.

The company is eligible to establish an R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners. For example, under this arrangement, the research and development tax credits and depreciation deductions for the company may be passed by the corporation through to its partners to be used to offset their individual tax liability. These deductions and credits are then lost to the corporation.

The company is eligible to issue a special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock held for at least 3 years. This is a modification of the current Section 1202 where only 50 percent of the gains are not taxed. This provision is adapted from legislation I have introduced, S. 1134, and introduced in the House by Representatives DUNN and MATSUI, H.R. 2383. A similar bill has been introduced by Senator COLLINS, S. 455.

The company is eligible to receive refunds for Net Operating Losses, NOLs, to fund the research. Under current law, net operating losses can only be used to offset a company's tax liability. If a company has no profits and therefore no tax liability, it cannot use its net operating losses. It can carry them forward, but the losses have no current value. This option would allow the company to receive a refund of its NOLs at a rate of 75 percent of their value. Once the company becomes profitable, and incurs tax liability, it must repay all of the refunds it has received. The provision in my legislation is adapted from bills introduced by Senator TORRICELLI, S. 1049, and Congressman ROBERT MATSUI, H.R. 2153.

A company that elects to utilize one of these incentives is not eligible to receive benefits of the Orphan Drug Tax Credit. Companies that can utilize tax credits, companies with taxable income and tax liability, might find the Orphan Credit more valuable. The legislation includes an amendment to the Orphan Credit to correct a defect in the current credit. The amendment has been introduced in the Senate as S. 1341 by Senators HATCH, KENNEDY and JEFFORDS. The amendment simply states that the Credit is available starting the day an application for orphan drug status is filed, not the date the FDA finally acts on it. The amendment was one of many initiatives championed by Lisa J. Raines, who died on September 11 in the plane that hit the Pentagon, and the amendment is named in her honor. As we go forward in the legislative process, I hope we will have an opportunity to speak in more detail about the service of Ms. Raines on behalf of medical research, particularly on rare diseases.

My legislation does not include an enhanced tax credit for this research. Very few biotechnology companies can utilize a tax credit as they have no taxable revenue and tax liability with respect to which to claim a credit. Instead, they can carry the credit forward and utilize it when they do have tax liability. But that may be many years from now. That is why I have focused on other incentives to assist the biotechnology industry to form capital to fund this countermeasures research.

The guaranteed purchase fund, and the patent bonus and liability provisions described below provide an additional incentive for investors to fund the research. Without capital from investors these biotechnology companies do not have the capacity, irrespective of their interest, to conduct the research.

The market for countermeasures is speculative and small. This means that if a company successfully develops a countermeasure, it may not receive

sufficient revenue on sales to justify the risk and expense of the research. This is why the legislation establishes a countermeasures purchase fund that will define the market for the products with some specificity before the research begins.

The fund managers will set standards for which countermeasures it will purchase and define the financial terms of the purchase commitment. This will enable companies to evaluate the market potential of its research before it launches into the project. The specifications will need to be set with sufficient specificity so that the company, and its investors, can evaluate the market and with enough flexibility so that it does not inhibit the innovativeness of the researchers. This approach is akin to setting a performance standard for a new military aircraft.

The legislation provides that the purchase fund is not obligated to purchase more than one product per class. This seeks to avoid a situation where the Government must purchase more than one product when it only intends to use one. But it might make more sense, as an incentive, for the Government to commit to purchasing more than one product so that many more than one company conducts the research. A winner-take-all system may well intimidate some companies and we may end up without a countermeasure to be purchased. It is also possible that we will find that we need more than one countermeasure because different products are useful for different patients. We may also find that the first product developed is not the most effective. Given the urgency of the research, we would like to have the problem of seeing more than one effective countermeasure developed. How we reconcile these competing considerations is a key issue we need to resolve.

My legislation provides that the countermeasure must be approved by the FDA. The standards that the FDA should apply in reviewing these types of products is an issue have been discussed in some detail and we need to fashion the most effective provision on this subject. We need to recognize that the requirement for FDA approval might, in some cases, not be needed, appropriate or possible.

The purchase commitment for countermeasures is available to any company irrespective of its paid-in capital.

Intellectual property protection of research is essential to biotechnology companies for one simple reason: they need to know that if they successfully develop a medical product another company cannot expropriate it. It's a simple matter of incentives.

The patent system has its basis in the U.S. Constitution where the Federal Government is given the mandate to ''promote the Progress of Science and the Useful Arts by securing for a limited time to Authors and Inventors the exclusive right to their respective Writings and Discoveries.'' In exchange for full disclosure of the terms of their inventions, inventors are granted the right to exclude others from making, using, or selling their inventions for a limited period of time. This quid pro quo provides investors with the incentive to invent. In the absence of the patent law, discoverable inventions would be freely available to anyone who wanted to use them and inventors would not be able to capture the value of their inventions or secure a return on their investments.

The patent system strikes a balance. Companies receive limited protection of their inventions if they are willing to publish the terms of their invention for all to see. At the end of the term of the patent, anyone can practice the invention without any threat of an infringement action. During the term of the patent, competitors can learn from the published description of the invention and may well find a new and distinct patentable invention.

The legislation provides two types of intellectual property protection. One simply provides that the term of the patent on the countermeasure will be the term of the patent granted by the Patent and Trademark Office without any erosion due to delays in approval of the product by the Food and Drug Administration. The second provides that a company that successfully develops a countermeasure will receive a bonus of 2 years on the term of any patent held by that company. Companies must elect one of these two protections and only small biotechnology companies may elect the second protection. Large, profitable pharmaceutical companies may elect only the first of the two options.

The first protection against erosion of the term of the patent is an issue that is partially addressed in current law, the Hatch-Waxman Patent Term Restoration Act. That act provides partial protection against erosion of the term, length of a patent when there are delays at the FDA in approving a product. The erosion occurs when the PTO issues a patent before the product is approved by the FDA. In these cases, the term of the patent is running but the company cannot market the product. The Hatch-Waxman Act provides some protections against erosion of the term of the patent, but the protections are incomplete. As a result, many companies end up with a patent with a reduced term, sometimes substantially reduced.

The issue of patent term erosion has become more serious due to changes at the PTO in the patent system. The term of a patent used to be fixed at 17 years from the date the patent was granted by the PTO. It made no difference how long it took for the PTO to process the patent application and sometimes the processing took years, even decades. Under this system, there were cases where the patent would issue before final action at the FDA, but there were other cases where the FDA acted to approve a product before the patent was issued. Erosion was an issue, but it did not occur in many cases.

Since 1995 the term of a patent has been set at 20 years from the date of application for the patent. This means that the processing time by the PTO of the application all came while the term of the patent is running. This gives companies a profound incentive to rush the patent through the PTO. Under the old system, companies had the opposite incentive. With patents being issued earlier by the PTO, the issue of erosion of patent term due to delays at the FDA is becoming more serious and more common.

The provision in my legislation simply states that in the case of bioterrorism countermeasures, no erosion in the term of the patent will occur. The term of the patent at the date of FDA approval will be the same as the term of the patent when it was issued by the PTO. There is no extension of the patent, simply protections against erosion. Under the new 20-year term, patents might be more or less than 17 years depending on the processing time at the PTO, and all this legislation says is that whatever term is set by the PTO will govern irrespective of the delays at the FDA. This option is available to any company that successfully develops a countermeasure eligible to be purchased by the fund.

The second option, the bonus patent term, is only available to small biotechnology companies. It provides that a company that successfully develops a countermeasure is entitled to a 2-year extension of any patent in its portfolio. This does not apply to any patent of another company bought or transferred in to the countermeasure research company.

I am well aware that this bonus patent term provision will be controversial with some. A company would tend to utilize this option if it owned the patent on a product that still had, or might have, market value at the end of the term of the patent. Because this option is only available to small biotechnology companies, most of whom have no product on the market, in most cases they would be speculating about the value of a product at the end of its patent. The company might apply this provision to a patent that otherwise would be eroded due to FDA delays or it might apply it to a patent that was not eroded. The result might be a patent term that is no longer than the patent term issued by the PTO. It all depends on which companies elect this option and which patent they select. In some cases, the effect of this provision might be to delay the entry onto the market of lower priced

generics. This would tend to shift some of the cost of the incentive to develop a countermeasure to insurance companies and patients with an unrelated disease.

My rationale for including the patent bonus in the legislation is simple: I want this legislation to say emphatically that we mean business, we are serious, and we want biotechnology companies to reconfigure their research portfolios to focus in part on development of countermeasures. The other provisions in the legislation are powerful, but they may not be sufficient.

This proposal protects companies willing to take the risks of producing anti-terrorism products for the American public from potential losses incurred from lawsuits alleging adverse reactions to these products. It also preserves the right for plaintiffs to seek recourse for alleged adverse reactions in Federal District Court, with procedural and monetary limitations.

Under the plan, the Secretary of HHS is authorized, and in the case of contractors with HHS, is required, to indemnify and defend persons engaged in research, development and other activities related to biological defense products through execution of ''indemnification and defense agreements.'' An exclusive means of resolving civil cases that fall within the scope of the indemnification and defense agreements is provided with litigation rights for injured parties. Non-economic damages are limited to $250,000 per plaintiff and no punitive or exemplary damages may be awarded.

Some have tried to apply the existing Vaccine Injury Compensation Program, VICP, to this national effort. That is inappropriate because that program will be extremely difficult to use, both administratively and scientifically. For example, it would take several years to develop the appropriate ''table'' that identifies a compensable injury. Companies will be liable during this process. Note that when VICP was created, there had been studies of what adverse reactions to mandated childhood vaccines had occurred and the table was based largely on this experience. Even so, it has taken years of effort, ultimately resulting in wholesale revisions to the table by regulation, to get the current table in place. For antibioterrorism products currently being developed, it will simply be impossible to construct a meaningful Vaccine Injury Table, there will be no experience with the product.

The Frist-Kennedy bill relies on the President's Executive Order regarding liability protections, so there is a basis for an agreement regarding this issue as applied to bioterrorism countermeasures. The provisions that I have proposed are superior to those in the Executive Order because the order provides protection only on a contract basis. So, it doesn't provide protection based on the product being developed, only if that product is being developed under a specific government contract. Therefore, it's negotiated case by case by HHS and a company. Your proposal provides assurance to companies, especially small and medium sized companies, that they will be protected. This will allow them to go forward with their development plans. Their lawyers may be leery of trying to negotiate their own deal with HHS. So, the EO may be effective for a large company when it negotiates making additional smallpox vaccine, but it provides little assurance to a small company that wants to start development. Also, the administration says the EO will be used to protect companies, however, the next administration could interpret it differently. That's why a statutory provision will provide greater assurance to companies.

The legislation focuses intently on development of vaccines and medicines, but it is possible that we will face biological agents and chemical agents we've never seen before. As I've mentioned, the Soviet Union bioterror research focused in part on use of genetic modification technology to develop agents and toxins that currently-available antibiotics can not treat. Australian researchers accidentally created a modified mousepox virus, which does not affect humans, but it was 100 percent lethal to the mice. Their research focused on trying to make a mouse contraceptive vaccine for pest control. The surprise was that it totally suppressed the ''cell-mediated response,'' the arm of the immune system that combats viral infection. To make matters worse, the engineered virus also appears unnaturally resistant to attempts to vaccinate the mice. A vaccine that would normally protect mouse strains that are susceptible to the virus only worked in half the mice exposed to the killer version. If bioterrorists created a human version of the virus, vaccination programs would be of limited use. This highlights the drawback of working on vaccines against bioweapons rather than treatments.

With the advances in gene sequencing, genomics, we will know the exact genetic structure of a biological agent. This information in the wrong hands could easily be manipulated to design and possibly grow a lethal new bacterial and viral strains not found in nature. A scientist might be able to mix and match traits from different microorganisms, called recombinant technology, to take a gene that makes a deadly toxin from one strain of bacteria and introduce it into other bacterial strains. Dangerous pathogens or infectious agents could be made more deadly, and relatively benign agents could be designed as major public health problems. Bacteria that cause diseases such as anthrax could be altered in such a way that would make current vaccines or antibiotics against them ineffective. It is even possible that a scientist could develop an organism that develops resistance to antibiotics at an accelerated rate.

This means we need to develop technology, research tools, that will enable us to quickly develop a tailor-made, specific countermeasure to a previously unknown organism or agent. These research tools will enable us to develop a tailor-made vaccine or drug to deploy as a countermeasure against a new threat. The legislation authorizes companies to register and receive a certification making them eligible for the tax incentives in the bill for this research.

Perhaps the greatest strength of our biomedical research establishment in the United States is the synergy between our superb basic research institutions and private companies. The Bayh-Dole Act and Stevenson-Wydler Act form the legal framework for mutually beneficially partnerships between academia and industry. My legislation strengthens this synergy and these relationships with two provisions, one to upgrades in the basic research infrastructure available to conduct research on countermeasures and the other to increase cooperation between the National Institutes of Health and private companies.

Research on countermeasures necessitates the use of special facilities where biological agents can be handled safely without exposing researchers and the public to danger. Very few academic institutions or private companies can justify or capitalize the construction of these special facilities. The Federal Government can facilitate research and development of countermeasures by financing the construction of these facilities for use on a fee-for-service basis. The legislation authorizes appropriations for grants to nonprofit and for-profit institutions to construct, maintain, and manage up to ten Biosafety Level 3–4 facilities, or their equivalent, in different regions of the country for use in research to develop countermeasures. BSL 3–4 facilities are ones used for research on indigenous, exotic or dangerous agents with potential for aerosol transmission of disease that may have serious or lethal consequences or where the agents pose high risk of life-threatening disease, aerosol-transmitted lab infections, or related agents with unknown risk of transmission. The Director of the Office and NIH shall issue regulations regarding the qualifications of the researchers who may utilize the facilities. Companies that have registered with and been certified by the Director, to develop countermeasures under Section 5(d) of the legislation, shall be given priority in the use of the facilities.

The legislation also reauthorizes a very successful NIH-industry partnership program launched in FY 2000 in Public Law 106–113. The funding is for partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical and medical device industries with regard to the development of countermeasures, as defined in Section 3 of the bill, and research tools, as defined in Section 4(d)(3) of the bill. Such grants shall be awarded on a one-for-one matching basis. So far the matching grants have focused on development of medicines to treat malaria, tuberculosis, emerging and resistant infections, and therapeutics for emerging threats. My proposal should be matched by reauthorization of the challenge grant program for these deadly diseases.

My legislation is carefully calibrated to provide incentives only where they are needed. This accounts for the choices in the legislation about which provisions are available to small biotechnology companies and large pharmaceutical companies.

Most biotechnology companies rely on infusions of investor capital to fund research, so the capital formation tax incentives only apply to them. Large pharmaceutical companies have ample revenues from product sales, and access to debt capital, so they do not need these incentives for capital formation.

The guaranteed purchase fund applies to any company that successfully develops a countermeasure. There is no reason to make any distinction between small and large companies. They all need to know the terms and dimensions of the potential market for the products they seek to develop. With countermeasures the market may well be uncertain or small, necessitating the creation of the purchase fund.

The patent protection provisions are also well calibrated. Both small and large companies face the patent term erosion problem due to delays at the FDA. There is no reason why companies that successfully develop a countermeasure should end up with a patent with an eroded term.

With regard to the patent bonus provision, this is included to supplement the capital formation tax incentives for small biotechnology companies. It provides a dramatic statement to investors that this research makes good business sense. As capital formation is not a challenge for a large pharmaceutical company, this patent bonus provision is not available to them.

Finally, with regard to the liability provisions, there is no reason to make any distinction between small and large companies.

The legislation makes choices. It sets the priorities. It provides a dose of incentives and seeks a response in the private sector. We are attempting here to do something that has not been done before. This is uncharted territory. And it's also an urgent mission.

There may be cases where a countermeasure developed to treat a biological toxin or chemical agent will have applications beyond this use. A broad-spectrum antibiotic capable of treating many different biological agents may well have the capacity to treat naturally occurring diseases.

This same issue arises with the Orphan Drug Act, which provides both tax and FDA approval incentives for companies that develop medicines to treat rare diseases. In some cases these treatments can also be used for larger disease populations. There are few who object to this situation. We have come to the judgment that the urgency of this research is worth the possible additional benefits that might accrue to a company.

In the context of research to develop countermeasures, I do not consider it a problem that a company might find a broader commercial market for a countermeasure. Indeed, it may well be the combination of the incentives in this legislation and these broader markets that drives the successful development of a countermeasure. If our intense focus on developing countermeasures, and research tools, provides benefits for mankind going well beyond terror weapons, we should rejoice. If this research helps us to develop an effective vaccine or treatment for AIDS, we should give the company the Nobel Prize for Medicine. If we do not develop a vaccine or treatment for AIDS, we may see 100 million people die of AIDS. We also have 400 million people infected with malaria and more than a million annual deaths. Millions of children die of diarrhea, cholera and other deadly and disabling diseases. Countermeasures research may deepen our understanding of the immune system and speed development of treatments for cancer and autoimmune diseases. That is not the central purpose of this legislation, but it is an additional rationale for it.

The issue raised by my legislation is very simple: do we want the Federal Government to fund and supervise much of the research to develop countermeasures or should we also provide incentives that make it possible for the private sector, at its own expense, and at its own risk, to undertake this research for good business reasons. The Frist-Kennedy legislation focuses effectively on direct Federal funding and coordination issues, but it does not include sufficient incentives for the private sector to undertake this research on its own initiative. Their proposal and mine are perfectly complimentary. We need to enact both to ensure that we are prepared for bioterror attacks.

I ask unanimous consent that an outline of my legislation appear at this point in the RECORD.

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

BIOLOGICAL AND CHEMICAL WEAPONS COUNTERMEASURES RESEARCH ACT OF 2001

The premise of the legislation is that there will be limits on direct Federal funding of research and development of countermeasures, vaccines, drugs, and other medicines, to prevent or treat infections from biological and chemical agents and toxins. The legislation proposes incentives that will enable biotechnology companies to take the initiative, for good business reasons, to conduct research to develop these countermeasures.

The incentives are needed because most biotech companies have no approved products or revenue from product sales to fund research. They rely on investors and equity capital markets to fund the research. These companies must focus on research that will lead to product sales and revenue and end their dependence on investor capital. When they are able to form the capital to fund research, biotech companies tend to be innovative and nimble and focused on the intractable diseases for which no effective medical treatments are available.

There is no established or predictable market for countermeasures. Investors are justifiably reluctant to fund this research, which will present technical challenges similar in complexity to development of effective treatments for AIDS. Investors need assurances that research on countermeasures has the potential to provide a rate of return commensurate with the risk, complexity and cost of the research, a rate of return comparable to that which may arise from a treatment for cancer, MS, Cystic Fibrosis and other major diseases or from other investments.

The legislation provides tax incentives to enable biotech companies to form capital to conduct the research. It then provides a guaranteed and pre-determined market for the countermeasures and special intellectual property protections to serve as a substitute for a market. Finally, it establishes liability protections for the countermeasures that are developed.

Specifics of the legislation are as follows: one, Office of Homeland Security sets research priorities in advance. Biotech companies that seek to be eligible for the incentives in the legislation must register with the Food and Drug Administration and be certified as eligible for the incentives; two, once a company is certified as eligible for the incentives, it becomes eligible for the tax, purchasing, patent, and liability provisions. A company is eligible for certification for the tax and patent provisions if it seeks to develop a research tool that will make it possible to quickly develop a countermeasure to a previously unknown agent or toxin, or an agent or toxin not targeted for research; three, Capital Formation for Countermeasures Research: The legislation provides that a company seeking to fund research is eligible to elect from among three tax incentives. The three alternatives are as follows: a. The company is eligible to establish an R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners; b. The company is eligible to issue a special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock; and, c. The company is eligible to receive refunds for Net Operating Losses, NOLs, to fund the research.

These tax incentives are available only to biotechnology companies with less than $750,000 in paid-in capital.

A company must elect only one of these incentives and, if it elects one of these incentives, it is then not eligible to receive benefits under the Orphan Drug Act. The legislation includes amendments to the Orphan Drug Act championed by Senators HATCH, KENNEDY and JEFFORDS, S. 1341. The amendments make the Credit available from the date of the application for Orphan Drug status, not the date the application is approved as provided under current law; four, Countermeasure Purchase Fund: The legislation provides that a company that successfully develops a countermeasure, through FDA approval, is eligible to sell the product to the Federal Government at a pre-established price and in a pre-determined amount. The company is given notice of the terms of the sale before it commences the research. Sales to this fund may be made by any company irrespective of its paid-in capital; five, Intellectual Property Incentives: The legislation provides that a company that successfully develops a countermeasure is eligible to elect one of two patent incentives. The two alternatives are as follows: a. The company is eligible to receive a patent for its invention with a term as long as the term of the patent when it was issued by the Patent and Trademark Office, without any erosion due to delays in the FDA approval process. This alternative is available to any company that successfully develops a countermeasure irrespective of its paid-in capital; b. The company is eligible to extend the term of any patent owned by the company for two years. The patent may not be one that is acquired by the company from a third party. This is included as a capital formation incentive for small biotechnology companies with less than $750,000 in paid-in capital.

Six, Liability Protections: The legislation provides for protections against liability for the company that successfully develops a countermeasure. This option is available to any company that successfully develops a countermeasure irrespective of its paid-in capital; and seven, Strengthening of Biomedical Research Infrastructure: Authorizes appropriations for grants to construct specialized biosafety containment facilities where biological agents can be handled safely without exposing researchers and the public to danger. Also reauthorizes a successful NIH-industry partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical and medical device industries with regard to the development of countermeasures and research tools.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 186—TO AUTHORIZE REPRESENTATION OF SENATOR LOTT IN THE CASE OF LEE V. LOTT

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 186

Whereas, in the case of Lee v. Lott, Case No. 01–CV–792, pending in the United States District Court for the Southern District of Mississippi, the plaintiff has named Senator Trent Lott as the sole defendant; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Lott in the case of Lee v. Lott.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, December 4, 2001, at 9:30 a.m., in open session to consider the nomination of Claude M. Bolton, Jr. to be Assistant Secretary of the Army for Acquisition, Logistics, and Technology and, following the open session, to meet in executive session to consider certain pending nominations.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, December 4, 2001, at 9:30 a.m. to conduct a hearing on the remediation process of biologically contaminated buildings. Specifically, the Committee is interested in the challenges of, and technologies available for, remediating buildings contaminated by biological contaminants. The hearing will be held in the Rm. SD–406.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, December 4, 2001, at 2:15 p.m. to hold a nomination hearing.

Agenda

Nominees: Adolfo Franco, of Virginia, to be an Assistant Administrator (Latin America and the Caribbean) of the United States Agency for International Development; Frederick Schieck, of Virginia, to be Deputy Administrator of the United States Agency for International Development; and Roger Winter, of Maryland, to be an Assistant Administrator (Democracy, Conflict, and Humanitarian Assistance) of the United States Agency for International Development.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, December 4, 2001, at 4:30 p.m. to hold a nomination hearing.

Agenda

Nominees: William R. Brownfield, of Texas, to be Ambassador to the Republic of Chile; and Charles S. Shapiro, of Georgia, to be Ambassador to the Bolivarian Republic of Venezuela.

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

COMMITTEE ON THE JUDICIARY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Department of Justice Oversight: Preserving Our Freedoms While Defending Against Terrorism,'' Tuesday, December 4, 2001, at 10 a.m. in Dirksen Room 226.

Tentative Witness List

Panel I: The Honorable Pierre-Richard Prosper, Ambassador-at-Large for War Crimes Issues, Department of State, Washington, DC.

Panel II: George J. Terwilliger III, Partner, White and Case, former Deputy Attorney General, Washington, DC; Professor Laurence H. Tribe, Harvard Law School, Cambridge, MA; Major General Michael J. Nardotti, Jr., Partner, Patton Boggs LLP, former Army Judge Advocate General, Washington, DC; Professor Cass R. Sunstein, University of Chicago Law School, Chicago, IL; and Timothy Lynch, Esq., Director, Project on Criminal Justice, Cato Institute, Washington, DC.

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

COMMITTEE ON THE JUDICIARY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Department of Justice Oversight: Preserving Our Freedoms While Defending Against Terrorism,'' Tuesday, December 4, 2001, at 2 p.m. in Dirksen Room 226.

Witness List

Panel I: Viet D. Dinh, Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice.

Panel II: Ali Al-Maqtari, New Haven, CT; Michael J. Boyle, Esq., Law Offices of Michael J. Boyle, North Haven CT; Steven Emerson, The Investigative Project, Washington, DC; Gerald H. Goldstein, Esq., Goldstein, Goldstein & Hilley, San Antonio, TX; Nadine Strossen, President, American Civil Liberties Union, Professor, New York Law School, New York, NY; and Victoria Toensing, Esq., DiGenova & Toensing, Washington, DC.

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

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, John Stewart and Scott Donelly are interns in

the office of the Finance Committee chairman, Senator BAUCUS. I ask unanimous consent that the privilege of the floor be granted to them today during the pendency of the Railroad Retirement Act.

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

UNANIMOUS CONSENT AGREEMENT—H.R. 10

Mr. REID. Mr. President, I ask unanimous consent that at 9:30 a.m. tomorrow Senator NICKLES be recognized to raise a point of order against the pending substitute with Senator BAUCUS then immediately to be recognized to make a motion to waive. Further, I ask unanimous consent that there then be 30 minutes equally divided between Senators BAUCUS and NICKLES or their designees. I also ask unanimous consent that following the debate time the Senate proceed to a vote on the motion to waive, and if the motion to waive is agreed to then the substitute amendment be agreed to, the bill be read the third time, and the Senate then proceed to a vote on passage of H.R. 10, with the cloture vote having been vitiated.

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

AUTHORIZING LEGAL REPRESENTATION

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 186, submitted earlier today by the majority leader.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 186) to authorize representation of Senator LOTT in the case of Lee v. Lott.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, this resolution concerns a civil action commenced in the United States District Court for the Southern District of Mississippi. The lawsuit, filed by a prolific, pro se plaintiff, names Senator LOTT as the sole defendant. The plaintiff has filed a number of prior lawsuits against other public officials, which have been dismissed by several courts.

In this action, the plaintiff calls upon Senator LOTT to commence impeachment proceedings against the United States Supreme Court for its ruling in Bush v. Gore. The plaintiff contends that because the Supreme Court's decision in that case was unlawful, all actions taken by President George Bush are unconstitutional, including one allegedly denying him disability benefits. This resolution authorizes the Senate Legal Counsel to represent Senator LOTT in this suit to move for its dismissal. Of course, under the Constitution, it is the House of Representatives, not the Senate, that initiates impeachment proceedings and the judgment of neither House in impeachment matters is the subject of judicial review.

Mr. REID. I ask unanimous consent the resolution and its preamble be agreed to en bloc, the motion to reconsider be laid on the table, and that statements by the majority leader be printed in the RECORD.

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

The resolution (S. Res. 186) was agreed to.

The preamble were agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

MEASURE READ THE FIRST TIME—S. 1765

Mr. REID. I send a bill to the desk regarding bioterrorism preparedness and ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1765) to improve the ability of the United States to prepare for and respond to a biological threat or attack.

Mr. FRIST. Mr. President, I rise today on behalf of myself, Senator KENNEDY, and dozens of our colleagues on both sides of the aisle to support critical legislation that will help our Nation better prepare to defend against potential bioterrorist attacks.

The Bioterrorism Preparedness Act of 2001 was first introduced on November 15. Today, we are reintroducing this bill so that it may be placed directly on the calendar and available for consideration by the full Senate.

As my colleagues will note, the Bioterrorism Preparedness Act enjoys broad bipartisan support. We are re-introducing the legislation today with 71 cosponsors—33 Republicans and 38 Democrats. In addition, in the two weeks since the legislation was first introduced, we have gained the support of over two dozen organizations, including the American Medical Association, the Biotechnology Industry Organization, the American Academy of Family Physicians, the American Public Health Association, the Association of Minority Health Professions Schools, and the National Association of Children's Hospitals & Related Institutions. The list of supporters is growing every day.

In light of this overwhelming support and the short time remaining this session of Congress, we are moving the bill directly onto the Senate calendar so that it will be available for us to consider as soon as possible.

In the wake of the attacks at the Pentagon and World Trade Center on September 11 and subsequent bioterrorist attacks, we know that bioterrorism is a significant and growing threat. I believe we must take steps this year to strengthen our capabilities to prepare for and respond to potential attacks.

Three years ago, as Chair of the Senate Public Health Subcommittee, I began a series of hearings to study in-depth the ability of our nation's public health infrastructure—at the local, state, and national level—to respond to public health threats and emergencies, including bioterrorism. Those hearings culminated in the passage of legislation last year—the Public Health Threats and Emergencies Act of 2000—intended to enhance coordination and improve resources for our public health system, principally at the state and local levels. But that authorizing legislation has never fully been funded, and it is now clear that more resources are needed to immediately strengthen our response capabilities.

That is why I feel so strongly that we must pass the Bioterrorism Preparedness Act of 2001. The legislation will address gaps in our Nation's defenses by expanding the capabilities of local, state, and federal government to respond to bioterrorist attacks, improving coordination among those responsible for responding to bioterrorist threats, speeding the development of vaccines and other countermeasures, and safeguarding the Nation's food supply and agriculture.

In closing, I want to thank my colleagues who have worked so hard to develop this legislation. In particular, I would like to single out Senator ROBERTS, Senator DASCHLE, and Senator HUTCHISON for their work on the agricultural provisions; Senators GREGG and HUTCHINSON for their contributions on the drug and vaccine development components; and Senator COLLINS for her input on the food safety provisions. Of course, I would also like to acknowledge my chief Democratic cosponsor, Senator KENNEDY. I encourage my colleagues who have not yet cosponsored this legislation to do so. And I encourage the leadership of the Senate to work with Senator KENNEDY and myself to find time in the days remaining so that this important legislation can be passed.

I yield the floor.

Mr. REID. Mr. President, I ask for the second reading and object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

ORDERS FOR WEDNESDAY, DECEMBER 5, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m.,

Wednesday, December 5; that immediately 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 be reserved for their use later in the day, and the Senate resume consideration of H.R. 10; further, that upon disposition of H.R. 10, there be 1 hour of debate equally divided between the two leaders or their designees prior to the vote on cloture on the motion to proceed to S. 1731, with the live quorum being waived.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:35 p.m., adjourned until Wednesday, December 5, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 4, 2001:

DEPARTMENT OF COMMERCE

JAMES R. MAHONEY, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, VICE ELWOOD HOLSTEIN, JR.

DEPARTMENT OF STATE

GRANT S. GREEN, JR., OF VIRGINIA, TO BE DEPUTY SECRETARY OF STATE FOR MANAGEMENT AND RESOURCES. (NEW POSITION)

OVERSEAS PRIVATE INVESTMENT CORPORATION

SAMUEL E. EBBESEN, OF THE VIRGIN ISLANDS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2003, VICE GEORGE DARDEN.

DISTRICT OF COLUMBIA OFFENDER SUPERVISION, DEFENDER, AND COURTS SERVICES AGENCY

PAUL A. QUANDER, JR., OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE DISTRICT OF COLUMBIA OFFENDER SUPERVISION, DEFENDER, AND COURTS SERVICES AGENCY FOR A TERM OF SIX YEARS. (NEW POSITION)

HOUSE OF REPRESENTATIVES—*Tuesday, December 4, 2001*

The House met at 12:30 p.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 3, 2001, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority leader, the minority leader, or the minority whip limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. PENCE) for 5 minutes.

ISRAEL ACTING IN SELF-DEFENSE

Mr. PENCE. Mr. Speaker, I rise today after a harrowing set of days, explosions, fire, innocent civilians running in panic through the streets; and I do not refer to life in America, New York City, or in the environs of the Pentagon on September 11; but I speak of Jerusalem and Israel. I speak of a nation that in the last week and past several days has grievously lost husbands and fathers, wives and mothers, sons and daughters, grandsons and granddaughters to the scourge of political terror.

I rise today humbly to speak of Israel and of the precious relationship that does and must continue to exist between the Government of the United States and the government of that great and historic people. As an American, a Christian, and a Hoosier, it is my firm belief now more than ever that it is my duty to insist that the United States of America never waver in protecting and defending the interests of the State of Israel in its battle for survival in this dangerous part of the world, and in its efforts now to open up, as the President's press secretary spoke yesterday, of the second front of the war on terrorism.

Mr. Speaker, many of these things may seem obvious, but many in the media are having a hard time figuring out who is right in the current conflict and how to best stop, we are told, the cycle of violence in order to help the parties get back to the negotiating table so they can iron out differences and misunderstandings. While I will say I am the first to admit that I know less than most of my colleagues do about Israel and its importance to America, let me say what I think this conflict is about and see whether my colleagues might agree.

Mr. Speaker, first I want to assert that I do not think that there is anything current about this conflict. I believe it is part of a continuing struggle being waged by many in the Arab world of extremists' views to do nothing other than to destroy the State of Israel, period. It is the historic aim of many in the terrorist organizations of Palestine and elsewhere, and the conflict today is simply an extension of that.

As to the question of who is right, that is simple. Mr. Speaker, it has ever been the policy of the United States of America and the people of this country since 1948 that Israel is right, believing as I do, as millions of Americans do, that He will still bless those who bless Israel, and so we stand with her.

A cycle of violence, I reject the term. When terrorists blow up a school bus or explode bombs in a mall killing children and innocent men and women, this is their aim. When Israel defense forces strike back, as they are at this hour and have in the last 24 hours, killing known terrorists and neutralizing terrorist assets, Mr. Speaker, this is not a cycle of violence; it is Israel performing her own self-defense.

As to returning to negotiations, one might ask what is there left to negotiate. Last summer at Camp David former Prime Minister Barak offered Yasser Arafat virtually everything. And how did Arafat respond? By launching a 9-month guerrilla war culminating this weekend, targeting women and children, some of whom were born in this country, and even in my State of Indiana. No, Yasser Arafat is not an effective negotiating partner. He is a terrorist, and it is time America stood strongly by Israel and said to Yasser Arafat, it is time that the terrorists and their capabilities are secured within the Palestinian Authority or else.

Mr. Speaker, the Bible tells us of another time when a man of God stood alone with his servant and hostile forces were arrayed against him. His servant was frightened, and so he prayed that God might open the eyes of his servant, that he would see more of those who are with us than those that are with them. It is my prayer, Mr. Speaker, that Israel's eyes would be opened, to know that though her enemies are ruthless, her friends in this country and this government are many, many more.

INCREASED TRANSPORTATION BENEFIT IS A WIN FOR HOUSE EMPLOYEES AND ENVIRONMENT

The SPEAKER pro tempore (Mr. CULBERSON). Under the Speaker's announced policy of January 3, 2001, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, I came to Congress with the notion that the Federal Government ought to be a better partner with American communities, local governments, business and citizens to help promote the livability of these communities, to make our families safe, healthy and economically secure.

One of the examples of where we could in fact make a difference was found upon my arrival here in Washington, D.C. Despite the fact that the District of Columbia was reputed to have the second worst traffic congestion of any metropolitan region in the country, despite concerns about congestion, pollution, a lack of parking here on Capitol Hill, the House of Representatives provided unlimited free parking for our employees, but would not do anything to help those who wanted to use mass transit and perhaps be part of the solution, despite the fact that we were arguing that the private sector and other governments ought to step up and try and help their employees with transit.

Mr. Speaker, it took an effort of almost 2 years and working with the gentlewoman from Maryland (Mrs. MORELLA), the gentleman from Michigan (Mr. EHLERS), the gentleman from Maryland (Mr. HOYER), the gentleman from Virginia (Mr. MORAN) we were able to implement a transit benefit program for the House employees.

Mr. Speaker, I am pleased that we have moved into a new era of that. We have more than tripled the benefit. Starting this month, employees will be able to have a $65 transportation benefit for those who do not avail themselves of free parking on Capitol Hill; and starting January 1, they will be able to deduct pretax an additional $35 for a $100 transit benefit.

I am extremely grateful, Mr. Speaker, to the leadership of the Committee on Administration under the leadership of the gentleman from Ohio (Mr. NEY) with the gentleman from Maryland (Mr. HOYER), the ranking member, where they stepped up, worked with the committee and put in place a program that is going to allow us to provide an extensive benefit for our employees; but it also, in a time when we

are concerned about the energy security of this country, when we are deeply concerned about the quality of life in and around our Nation's capital, and when we are watching the problems associated with increased security every day stack up cars as they are waiting to be inspected coming into our House parking lots, this transportation benefit is a win for the environment, it is a win for the morale and efficiency of employees on the House. It is a win for those who want to make sure that Congress leads by example.

I strongly urge that each office look anew at this enhanced benefit program to make sure that each eligible employee takes advantage of it, and in fact, that each Member of Congress and their chief of staff encourage others to take advantage of it, because it is going to be good for them in the long run. We want the program to be a success. It is an important step to save money, to save the environment, and make Capitol Hill a little more livable.

ANTI-DUMPING LAWS LAST LINE OF DEFENSE AGAINST UNFAIRLY TRADED IMPORTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, despite the overwhelming passage of a sense of Congress resolution urging the President to keep U.S. anti-dumping laws off of Qatar's negotiating table, the U.S. Trade Representative, Bob Zoellick, did just the opposite after a 410 to 4 vote.

U.S. officials have signaled that they are willing to negotiate on trade dumping laws that provide safeguards against countries selling products in the U.S. marketplace at below cost. The American steel industry, like so many others, relies on anti-dumping laws as their last line of defense against unfairly traded imports.

Unfortunately, since the WTO Uruguay Round, the steel industry's ability to defend itself against dumping has been severely weakened. Now, in Qatar, a couple of weeks ago, the U.S. Trade Representative has remained open to further weakening the rules on trade dumping, further jeopardizing American steel, further threatening American jobs.

Many of us were concerned about Qatar long before the negotiations began. It is a country that does not allow free elections. It is a country that does not allow freedom of expression. It is a country where women are treated not much differently from the way women are treated by the Taliban in Afghanistan.

□ 1245

It is a country where public worship by non-Muslims is banned. The message that sends to people around the world that the trade ministers of all of the nations in the world are meeting in a city, in a country, where public protest will not be allowed, where free speech is not allowed, where public expression is not allowed, where freedom of worship is not allowed, and where free elections are not allowed, the message that sends is troubling. It is troubling because all too often our own trade minister, Robert Zoellick, has used in the past language to suggest that those of us who do not support his free trade agenda, his agenda to weaken environmental standards, to weaken labor standards around the world, those of us who do not support this free trade agenda, he implies, are indifferent to terrorism. He has questioned our patriotism saying, we do not really share American values if we do not support Fast Track, if we do not support his trade legislation because, he tells us, that is the way to combat terrorism around the world: You are either with us or you are against us. Many of us resent the U.S. Trade Representative questioning our patriotism, claiming we are indifferent to terrorism because we believe his Fast Track proposal is not coincident with American values and does not do the right things for our country.

Supporters of Fast Track argue that the U.S. is being left behind. They tell us we need Fast Track to increase American exports and provide new jobs for American workers. But this country's history of flawed trade agreements has led to a trade deficit with the rest of the world that surges well above $350 billion. The 2000 trade deficit is 40 percent higher than the previous record set in 1999. The Department of Labor has reported that NAFTA, and these are very conservative government figures, that NAFTA has caused the loss of 300,000 jobs.

The American steel industry is no stranger to trade-induced adversity. Thousands of steel workers have lost their jobs. Mr. Speaker, 25 companies have filed for bankruptcy, 16 in the last year. We import 39 million tons of steel, double the 16 million tons we imported only 10 years ago, and steel prices, because of that, are below 1998 levels. In my home district, steel workers from LTV are learning firsthand that our trade policies put American workers in jeopardy. LTV terminated negotiations with its major union and went to bankruptcy court seeking permission to shut down its steel-making operations in anticipation of its sale. Now 11,000 jobs and the pensions and health benefits of more than 65,000 retirees and surviving spouses hang in the balance. LTV and the rest of the steel industry need Congress' assistance in solving this problem. Fast Track is not the answer. While our trade agreements go to great lengths to protect investors and protect property rights, these agreements do not include enforceable protections for workers or for the environment.

CEOs of multinational corporations tell us that globalization stimulates development and allows nations to improve their environmental and labor record. The truth is, flawed trade agreements cost American jobs, put downward pressure on U.S. wages and working conditions, and erode the ability of government to protect public health and to protect the environment. If we fail to include these important provisions and trade agreements, multinational corporations will continue to dismiss labor and environmental protection as discretionary and wholly unnecessary. Global working conditions, global living conditions will continued to suffer.

We need to press for U.S. trade policy with provisions that protect American workers. We need to press for a U.S. trade policy with provisions that protect the American environment. We have experienced an economic slowdown, a drop in the stock market. Fast Track will not solve that problem, it will only make it worse.

ISRAEL MUST DEFEND ITSELF

The SPEAKER pro tempore (Mr. CULBERSON). Under the Speaker's announced policy of January 3, 2001, the gentleman from Massachusetts (Mr. FRANK) is recognized during morning hour debates for 5 minutes.

Mr. FRANK. Mr. Speaker, at a profoundly troubling time in the Middle East, I want to express very strongly my complete support for the right of the government of Israel to defend itself, its existence as a Nation, and its people from the systematic campaign of mass murder that is being inflicted on it. Americans should understand that if we take into account the populations of the two countries, the number of victims of blatant terrorism against unarmed civilians in Israel exceeds in the past few months the number of tragic deaths suffered here in America, and the Israeli government has every right to respond in a way that protects its people.

I say that, Mr. Speaker, as one who was a strong supporter of the peace process that President Clinton encouraged the parties in the Middle East to undertake. I thought that Prime Minister Barak, former Prime Minister Barak, took very creditworthy risks on behalf of peace. I defend the right of the Israeli government to support itself, not because peace is an irrelevancy, but because peace cannot come in an atmosphere of terror. In fact, we should be very clear that the recent terrible, tragic increase in the deaths of innocent people was brought about, in part, by people who are threatened by peace, who do not want to see coexistence of an Israeli and Palestinian State. It is not an accident

that as the Bush administration repudiated its past mistake of staying out of the Middle East peace process in their effort to repudiate everything that President Clinton had done, it is not a coincidence that the terror stepped up after the Bush administration sought to increase peace efforts.

The mistake, however, would be to say that the terrorism should be allowed to have an impact. People who argue that the way to end and respond to terrorism in the short run is in some ways to move towards the policies advocated by the terrorists make an error.

I am in favor of some change in Israeli policy. I think that the expansion of settlements is a grave error. I think the Mitchell Commission was right on that point. I think there ought to be movement towards peace. But if that movement is seen to have come as a result of mass murder, it gives an encouragement to the policy of murder.

The second question that has to be addressed here is, can Yasser Arafat in fact put an end to this. People have said well, in defense of Arafat, even if he wanted to put an end to this terror, he could not do it. Those who make that argument, and I am skeptical that anyone really knows the answer, but those who make that argument should be very clear: That is an attack on the peace process. If in fact Arafat confronts a population so imbued with hatred for Israel, so opposed to the notion of a genuine peace that could be acceptable to both sides, that he is powerless to put an end to this systematic murder campaign, then the prospects for peace are very bleak indeed.

I hope that is not the case. I think the Israeli government, with the encouragement and support of the U.S. Government should continue to probe. But we should be very clear that the so-called defense of Arafat, namely that bringing about an end to the terror and bringing about a genuine commitment to peace is beyond his capacity or the capacity of any other Palestinian leader is, in fact, a repudiation of the peace process. And in any case, whether that bleak prospect is what faces us or not, no one can deny the right of the democratically elected government of Israel to defend its people against a systematic campaign of mass murder, and no government should be asked to divert its attention from that most fundamental task of a government, that most fundamental responsibility of government to protect its innocent and unarmed citizens from systematic murder; no one should be diverted from that.

If, in fact, Arafat is sincere and he has the power, we will see that soon. He will genuinely cooperate in putting an end to this campaign. And if not, and if the peace process founders because of that, since no government can be expected to seriously negotiate under the threat of this sort of systematic campaign of terror, then it will be clear where the responsibility lies, and it will not be with the government of Israel.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 53 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PETRI) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, judge of all and savior of Your people, prepare the hearts and minds of Your servants that they may attend to Your Holy Word and be moved to reconciliation.

You alone forgive sin. From You alone comes the first movement of grace which changes human hearts. Destroy all false images and idols that all may come to know You, the one true living God.

Be with the Members of the House of Representatives on this National Day of Reconciliation as they join Members of the Senate in solemn assembly to seek the blessings of Your Divine Providence for forgiveness, reconciliation, unity and charity for all people of the United States.

As Members humble themselves in prayer before You, may Your healing Spirit touch profoundly all divided communities across this Nation. Make us one Nation, truly wise, a symbol of equal justice to the world, a responsive partner, defender of life and friend of the poor.

Renewed as Your people, forgiven of our sins, may this Nation be a sign of hope to others as You bring peace and goodwill to earth, both now and forever.

Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. KNOLLENBERG 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.

DISPENSING WITH CALL OF PRIVATE CALENDAR ON TODAY

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today.

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

There was no objection.

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, December 3, 2001.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. 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 December 3, 2001 at 10:34 a.m.

That the Senate passed without amendment H.R. 1766.

That the Senate passed without amendment H.R. 2261.

That the Senate passed without amendment H.R. 2454.

That the Senate passed without amendment H.J. Res. 71.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM STAFF MEMBER OF THE HONORABLE JOHN CONYERS, JR., MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Deanna Maher, congressional aide to the Honorable JOHN CONYERS, Jr., Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 11, 2001

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for production of documents issued by the Washtenaw County Circuit Court.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,

DEANNA MAHER,
Congressional Aide.

PASSAGE OF TRADE PROMOTION AUTHORITY

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

Mr. RYUN of Kansas. Mr. Speaker, in my home State of Kansas, family farms are no longer able to make ends meet. Farmers tell me it is crucial that we expand markets for their products now or they will not be in business in 10 years.

Today, one in three acres planted by our farmers is harvested for export. We can and should do better.

Trade Promotion Authority is a tool that can boost the profits of American farmers and make them even more self-sufficient. If we streamline the trade agreement process that President Bush must follow, we will have increased competition, economic efficiency, and greater markets for our farm products.

As the key player on the world stage, we should give President Bush our vote of confidence to promote trade without excessive barriers.

I believe in the American farmer, and I trust President Bush. I urge my colleagues to allow the President to create more markets for American grains and products by granting Trade Promotion Authority.

TERRORIST ATTACKS AGAINST ISRAEL

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

Mr. LANTOS. Mr. Speaker, today the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the House Committee on International Relations, and I will introduce a resolution that categorically condemns this week's outrageous terrorist strikes against the State of Israel and Israeli people.

In the attacks of September 11, our Nation suffered the loss of over 3,000 innocent men, women, and children. Since that fateful day, our ally Israel has suffered a comparable loss. With 6 million citizens compared to our 280 million, Israel's 60 victims since September equates to over 2,700 American victims. Nearly half this number perished in a span of just 14 hours this past weekend.

Mr. Speaker, the United States is currently targeting regimes that harbor terrorists, as well as terrorists themselves. Israel must also target the terrorists' protectors. The Palestinian Authority bears full responsibility for the attacks of December 1 and 2, just as the Taliban bears full responsibility for the attacks of September 11.

I urge all of our colleagues to join the gentleman from Illinois (Mr. HYDE) and me in this resolution expressing solidarity with the people of Israel.

VOTING FOR TRADE PROMOTION AUTHORITY

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

Mr. KNOLLENBERG. Mr. Speaker, when we vote in 2 days on Trade Promotion Authority, nothing less than American leadership in the world is at stake.

As we lead the world in an effort to eradicate terrorism, we risk abdicating our position of leadership in an area that is just as vital to America's well-being and that is international trade.

The United States has been falling rapidly behind the rest of the world in international trade. I said rapidly behind. There are more than 130 trade agreements in effect in the world today, but the United States is party to just three.

For the world's most open society, the U.S., which should be leading the charge to open up other countries to our products, this is a sorry state of affairs.

We have a chance on Thursday to reclaim the mantle of leadership by passing TPA. When we do, the exports will go abroad; and the high paying jobs will stay here.

I urge all my colleagues to support TPA.

RECOGNITION OF THE ROLE WOMEN PLAYED IN THE TRAGEDY OF SEPTEMBER 11

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

Mrs. CHRISTENSEN. Mr. Speaker, today I join the other members of the Caucus of Women's Issues at a luncheon to honor women at Ground Zero.

To look at the media reporting, we believe that all who responded were men; but as was the case, there was a need, and the women were there were, firefighters, police officers, construction workers, emergency medical personnel, doctors, nurses and others, putting their lives on the line and in some cases giving their lives.

I want to thank the co-chairs, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentlewoman from California (Ms. MILLENDER-MCDONALD), for having the NOW legal defense and education fund, and Lieutenant Brenda Berkman there to tell the story of the brave and selfless women who were there with the men to respond in our country's tragic hour of need.

The story brought a tear to many an eye, male and female, not just because of the stories the women told, and they were powerful, but also because once again women were invisible, in the media, in the new recruits, also in the recovery planning; and this is America, not Afghanistan.

This is a potent reminder that women even here are still underrepresented at high levels of business and politics and that we are underpaid and have less opportunity.

As we put our country back on the road to recovery, let us not get back to normal. Let us get better.

HALT STORAGE OF NUCLEAR WASTE AT YUCCA MOUNTAIN

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

Mr. GIBBONS. Mr. Speaker, here we go again. The General Accounting Office, a nonpartisan congressional investigative agency, is calling on the President and the Department of Energy to indefinitely postpone its decision on whether to build a huge permanent centralized waste storage site at Yucca Mountain, Nevada.

The GAO report calls the plan to bury waste at Yucca Mountain a failed scientific process, echoing the concern I and my fellow Nevadans have expressed for years.

Yet the report goes on further; it warns that the plans the DOE has been showing to Congress and Nevadans may not describe the facilities that DOE would actually develop.

Mr. Speaker, it is obvious that the plan to bury nuclear waste at Yucca Mountain has not only been an obscene waste of taxpayer money but also a huge conspiracy to misrepresent the facts and deceive the American public.

It is time for the DOE to tell the truth. Storing nuclear waste at Yucca Mountain is not a safe plan, and I call upon my colleagues in the Congress to protect the American people and halt Yucca Mountain.

SUPPORT TRADE PROMOTION AUTHORITY

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

Mrs. BIGGERT. Mr. Speaker, we hear many reasons why this House should pass legislation to renew Trade Promotion Authority. Today, I rise on behalf of working American families who need TPA.

American families in the bottom 20 percent of the income scale spend 52 percent of their after-tax income on food and clothing. Unfortunately for these hard-working families, food and clothing are the most heavily taxed income sectors, accounting for more than half of U.S. import taxes.

In fact, the average American family of four pays $1,100 every year because of import taxes. Talk about regressive taxation. Families struggling to make ends meet are disproportionately hit by import taxes at the same time our trade negotiators sit on the sidelines, lacking authority to make the deals needed to eliminate these taxes.

Passing TPA will help working families. Let us pass H.R. 3005 and give them a break.

SUPPORTING ISRAEL'S WAR ON TERRORISM

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

Mr. FERGUSON. Mr. Speaker, the scene is one that we know all too well: mindless terrorists attacking the young and the innocent, fleeing civilians with terror in their eyes, and once again, Mr. Speaker, scores of young people, their lives ended by the violent hatred of terrorism. We saw this on our own soil on September 11, and we saw it again this past weekend in Israel.

Mr. Speaker, September 11, while devastating for us, also gave us a sense for what our friends in Israel have been dealing with for decades; but beyond our new understanding of Israeli suffering, September 11 also gave us a new responsibility, to support Israel's own war on terrorism.

I applaud President Bush and the recent comments from Secretary of State Colin Powell. They have recognized that Israel has a right and a responsibility to defend itself.

Mr. Speaker, I ask my colleagues in Congress and the American people to support our friends in Israel as they struggle for peace and security.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

PERIODIC REPORT ON NATIONAL EMERGENCIES WITH RESPECT TO YUGOSLAVIA AND KOSOVO—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–154)

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 International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a combined 6-month periodic report on the national emergencies declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) in Executive Order 12808 on May 30, 1992, and Kosovo in Executive Order 13088 on June 9, 1998.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 4, 2001*.

PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–155)

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 International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), I transmit herewith a 6-month periodic report on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 4, 2001*.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 7 p.m. today.

RECOGNIZING RADIO FREE EUROPE/RADIO LIBERTY'S SUCCESS IN PROMOTING DEMOCRACY

Mr. LEACH. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 242) recognizing Radio Free Europe/Radio Liberty's success in promoting democracy and its continuing contribution to United States national interests.

The Clerk read as follows:

H. CON. RES. 242

Whereas on May 1, 1951, Radio Free Europe inaugurated its full schedule of broadcast services to the people of Eastern Europe and, subsequently, Radio Liberty initiated its broadcast services to the peoples of the Soviet Union on March 1, 1953, just before the death of Stalin;

Whereas now fifty years later, Radio Free Europe/Radio Liberty (RFE/RL, Inc.) continues to promote democracy and human rights and serve United States national interests by fulfilling its mission ''to promote democratic values and institutions by disseminating factual information and ideas'';

Whereas Radio Free Europe and Radio Liberty were established in the darkest days of the cold war as a substitute for the free media which no longer existed in the communist-dominated countries of Central and Eastern Europe and the Soviet Union;

Whereas Radio Free Europe and Radio Liberty developed a unique form of international broadcasting known as surrogate broadcasting by airing local news about the countries to which they broadcast as well as providing regional and international news, thus preventing the communist governments from establishing a monopoly on the dissemination of information and providing an alternative to the state-controlled, party dominated domestic media;

Whereas the broadcast of uncensored news and information by Radio Free Europe and Radio Liberty was a critical element contributing to the collapse of the totalitarian communist governments of Central and Eastern Europe and the Soviet Union;

Whereas since the fall of the Iron Curtain, RFE/RL has continued to inform and therefore strengthen democratic forces in Central Europe and the countries of the former Soviet Union, and has contributed to the development of a new generation of political and economic leaders who have worked to strengthen civil society, free market economies, and democratic government institutions;

Whereas United States Government funding established and continues to support international broadcasting, including RFE/RL, and this funding is among the most useful and effective in promoting and enhancing the Nation's national security over the past half century;

Whereas RFE/RL has successfully downsized in response to legislative mandate and adapted its programming to the changing international broadcast environment in order to serve a broad spectrum of target audiences—people living in fledgling democracies where private media are still weak and do not enjoy full editorial independence, transitional societies where democratic institutions and practices are poorly developed, as well as countries which still have tightly controlled state media;

Whereas RFE/RL continues to provide objective news, analysis, and discussion of domestic and regional issues crucial to democratic and free-market transformations in emerging democracies as well as strengthening civil society in these areas;

Whereas RFE/RL broadcasts seek to combat ethnic, racial, and religious intolerance and promote mutual understanding among peoples;

Whereas RFE/RL provides a model for local media, assists in training to encourage media professionalism and independence, and develops partnerships with local media outlets in emerging democracies;

Whereas RFE/RL is a unique broadcasting institution long regarded by its audience as an alternative national media that provides both credibility and security for local journalists who work as its stringers and editors in the broadcast region; and

Whereas RFE/RL fosters closer relations between the United States and other democratic states, and the states of Central Europe and the former Soviet republics: Now therefore be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) congratulates the editors, journalists, and managers of Radio Free Europe/Radio Liberty on a half century of effort in promoting democratic values, and particularly their contribution to promoting freedom of the press and freedom of expression in areas of the world where such liberties have been denied or are not yet fully institutionalized; and

(2) recognizes the major contribution of Radio Free Europe/Radio Liberty to the growth of democracy throughout the world and its continuing efforts to advance the vital national interests of the United States in building a world community that is more peaceful, democratic, free, and stable.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

□ 1415

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 242, the concurrent resolution under consideration.

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

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume, and simply stress that this resolution recognizes 50 years of outstanding broadcasts by Radio Free Europe/Radio Liberty.

Earlier this year, we celebrated the one-half century of service of Radio Free Europe/Radio Liberty, and now we bring before this House a resolution to memorialize this occasion: Today, RFE/RL continues its mission to promote democratic values and institutions by disseminating factual information and ideas, thus expressing the idealism of the American experience.

As we face the war against terrorism and continued suppression of free media in many countries, it is clear that there remains a compelling mission for U.S. support of international broadcasting to provide factual information about world events and events within a given country.

The resolution before us recognizes the work of the broadcasters, the editors, the journalists, and the managers of RFE/RL, who see their work not just as a job but as a mission. Daily, they bring hope to people who do not have access to fair and independent media.

I urge my colleagues to support this resolution to formally recognize the work and successes of Radio Free Europe/Radio Liberty and our support for their ongoing work to promote democratic values around the world.

Before reserving the balance of my time, let me just say I am particularly appreciative of the work of the gentleman from Illinois (Mr. HYDE), the gentleman from California (Mr. LANTOS), the gentleman from California (Mr. BERMAN), the gentleman from New Jersey (Mr. SMITH), and the gentleman from California (Mr. ROYCE), and so many others for their strong support of public diplomacy of the United States.

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

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume, and I would like to add to that good list of names the gentleman just recited the name of my dear friend, the gentleman from California (Mr. LEACH), who has made such enormous contributions to this issue and to all other issues before our committee.

Mr. Speaker, I rise in strong support of this resolution. I was pleased to join the gentleman from Illinois (Mr. HYDE) in introducing this important resolution, Mr. Speaker, and I commend the chairman for his initiative.

As the United States mounts an intensive public diplomacy campaign in the Middle East in support of our war on terrorism, it is critical that we reflect on our Nation's past success in amplifying American values around the globe through the airwaves. Radio Free Europe and Radio Liberty stand as shining examples of the power of American democratic values and the potential of public diplomacy to advance United States national interests.

Since the founding of Radio Free Europe a half a century ago and the founding of Radio Liberty 48 years ago, these two broadcasting services have provided people around the world with hope and support in their struggle against repression. During the Cold War, Mr. Speaker, Radio Free Europe/Radio Liberty responded to the yearnings of those people who were suffering under the yoke of Communism and the Soviet Union in Eastern Europe. Since the fall of the Berlin Wall, the two broadcasting services have adapted their missions, reformed their institutions, and extended their reach to Iraq, Iran, Afghanistan, and beyond.

As a young man in occupied Hungary during the Second World War, I recall the inspirational and liberating broadcasts of the BBC, and I can testify personally to the dramatic effect those radio programs had in providing hope to people denied basic information.

Unlike the dictators whom we resist, we have truth on our side. Democracy and the market economy are destined to prevail. To hasten this state, we must promote aggressively our values by all means of communication available to us. Radio Free Europe and Radio Liberty are among the most effective tools in our public diplomacy toolbox, and they deserve our continued and strong support.

I commend Radio Free Europe and Radio Liberty on 50 years of distinguished service to our Nation, and I ask all of my colleagues to join me in wishing this great organization many more years of success by supporting this resolution.

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

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume to just again compliment the gentleman from California (Mr. LANTOS), whose visions on these issues have been nothing less than extraordinary.

Mr. GILMAN. Mr. Speaker, I would like to voice my ardent support for H. Con. Res. 242, which congratulates Radio Free Europe/Radio Liberty for its half century of work in promoting democratic values, and recognizes the organization's contribution to the growth of democracy throughout the world, as we strive toward creating a world of free democratic states living in peace with one another.

One of the most effective, efficient ways to promote the growth of democratic institutions on every continent is for Americans to communicate directly with people in other countries. For 50 years, Radio Free Europe/Radio Liberty has continued to broadcast daily news, analysis, and current affairs programming in a coherent, objective manner throughout the world. Radio Free Europe/Radio Liberty programs continue to provide 35 million listeners with balanced, reliable information, aimed at bolstering democratic development and market economies in countries where peaceful evolution to civil societies is of vital national interest to the United States.

With the advent of the war on terrorism, it becomes vital that Radio Free Europe/Radio Liberty continues to demonstrate to other societies how having the freedom to live and do business creates a dynamic economy and a vibrant society. Explaining the value of freedom by directly communicating with the general population of other countries and their power elites is the best example of public diplomacy.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 242.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GEORGE P. SHULTZ NATIONAL FOREIGN AFFAIRS TRAINING CENTER

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3348) to designate the National Foreign Affairs Training Center as the George P. Shultz National Foreign Affairs Training Center.

The Clerk read as follows:

H.R. 3348

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

SECTION 1. DESIGNATION OF THE GEORGE P. SHULTZ NATIONAL FOREIGN AFFAIRS TRAINING CENTER.

(a) IN GENERAL.—

(1) Section 701(a) of the Foreign Service Act of 1980 (22 U.S.C. 4021(a)) is amended by adding at the end the following: ''The institution shall be designated the 'George P. Shultz National Foreign Affairs Training Center' ''.

(2) Any reference in any provision of law to the National Foreign Affairs Training Center or the Foreign Service Institute shall be considered to be a reference to the George P. Shultz National Foreign Affairs Training Center.

(b) CONFORMING AMENDMENTS.—

(1) Section 53 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2725) is amended—

(A) in the section heading by inserting ''GEORGE P. SHULTZ'' after ''THE''; and

(B) by inserting ''George P. Shultz'' after ''use of the''.

(2) Section 708(a) of the Foreign Service Act of 1980 (22 U.S.C. 4028(a)) is amended by inserting ''George P. Shultz'' after ''director of the''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on H.R. 3348, the bill under consideration.

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

There was no objection.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume, and let me welcome this opportunity to bring H.R. 3348 to the House floor. The bill designates the National Foreign Affairs Training Center after a distinguished American, George Shultz.

Mr. Shultz, among his many achievements, was responsible for creation of the new Foreign Service training facility established in Arlington, Virginia. He undertook the difficult task of convincing Congress that the funding of the new campus would be an investment in the future of our foreign affairs community. In 1993, the professional and modern facilities opened as the National Foreign Affairs Training Center.

Secretary Shultz has a strong belief that the Nation should have a permanent home for training U.S. Government officials that serve overseas. Since 1947, the State Department has operated an in-service training facility, but by the late 1980s, it was apparent that there was a need for expanded course offerings and a larger facility to accommodate the increased number of participants. Secretary Shultz successfully pursued his goal to have a first-rate training facility established, which today has an enrollment of approximately 30,000 a year.

As thrice a graduate of courses at the old Foreign Service Institute, it is an honor to bring this bill before the House. As a longtime admirer of the public service of Secretary Shultz, it is a particular honor to help bring his vision to reality.

I would urge strong support for this resolution and again would commend my good friend, the gentleman from California (Mr. LANTOS), for his support for this initiative.

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

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume. And let me just say at the outset that one of the many reasons why the contributions of the gentleman from Iowa (Mr. LEACH) to the work of this body and to the Committee on International Relations is of such high quality is because of his earlier service as a member of our Foreign Service. He exemplifies the extraordinary talent of our diplomatic corps, and I want to commend him for bringing this legislation to our attention.

Mr. Speaker, I am delighted to cosponsor this bill with the gentleman from Illinois (Mr. HYDE) because Secretary George Shultz deserves all the recognition that this Congress and the American people may offer. George Shultz was a brilliant Secretary of State and he guided the United States through a most critical time in our Nation's history.

I was a member of the Committee on International Relations during Secretary Shultz's entire tenure, and I have the highest regard for him both professionally and personally. After leaving Washington, Secretary Shultz made the wise decision to return to my area of the country, the San Francisco Bay area, and I have been delighted to claim him both as a constituent and as a friend.

George Shultz is proud of his Princeton and Marine Corps background, and he has provided a quality of integrity and intelligence and commitment to public service which is truly extraordinary. He may have left the government and moved away from Washington, but George continues to be actively engaged in our foreign policy and committed to strengthening and supporting the Department of State and the men and women who work there. I think it is more than fitting that this great institution that he worked so hard to establish, that he has been so dedicated to, should bear his name.

The Foreign Service Institute was originally created in 1943, and it provides training to the State Department and 43 other Federal agencies, providing instruction to over 30,000 U.S. Government employees every year in 63 foreign languages as well as in courses on management, leadership, diplomacy, security, economics, and other valuable skills and subjects.

Secretary Shultz was instrumental in obtaining the land and the funding to move the Institute to its current home on a 72-acre plot at the National Foreign Affairs Training Center in Arlington, Virginia. I am indeed proud to be a cosponsor of this bill to designate the National Foreign Affairs Training Institute as the George P. Shultz National Foreign Affairs Training Center.

I thank the chairman and the gentleman from Iowa (Mr. LEACH) for their leadership on this issue. I urge all of my colleagues to support this bill.

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

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROYCE).

□ 1430

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

Mr. Speaker, I think that it is indeed proper that the many achievements of George P. Shultz be recognized by the naming of this new National Foreign Affairs Training Center after Mr. Shultz.

As well as commending the gentleman from Iowa (Mr. LEACH) for the gentleman's efforts, I also commend the ranking member, the gentleman from California (Mr. LANTOS), for the bill that he brought up prior to this measure, and take a moment, if I could, to speak about the importance of commemorating the 50th anniversary of Radio Free Europe and Radio Liberty.

I think it is important that we remember within 10 minutes of the establishment of Radio Free Europe, the Soviets were already attempting in 1951 to jamb those broadcasts, and yet those broadcasts got through. What Joseph Stalin was afraid of was what was being told over the air waves. He was afraid of the truth; Radio Free Europe/Radio Liberty developed a rather unique form of international broadcasting. We call that today surrogate radio, airing local news about the countries to which they broadcast, operating as if they had a free and vibrant press.

During the Cold War, these radios brought the news of the Hungarian revolution of 1956, the Prague uprising of 1968, and most importantly, the rise of the solidarity movement in Poland. And when we talk with the leaders of the Czech Republic or Poland, they say that the hearts and minds of people were turned by the opportunity to listen every day to a radio broadcast which explained what was actually happening inside their country. These broadcasts were able to explain and to put into context what people were hearing from the Soviet broadcasts, and over time we know that this was

the most effective single thing that changed the attitudes of the average person in Eastern Europe, we know that from the leaders of these countries today. They were critical in contributing to the collapse of communism, the collapse of the totalitarian governments of Eastern Europe and the former Soviet Union. And besides its outstanding impact behind the Iron Curtain during the Cold War, the radios also aided in Afghanistan from 1985–1993 during the Soviet invasion.

Radio Free Europe/Radio Liberty still continues to tell the truth, countering dictators like Saddam Hussein. Saddam Hussein has long complained that Radio Free Iraq is, in his words, an act of aggression. The Iraqi dictator has become so irked by his attempt to undermine his control over the media that Saddam Hussein instructed his intelligence officials, and apparently recently there has been a plot uncovered by Iraq to bomb Radio Free Europe's headquarters in Prague.

Last month this House passed legislation authored by myself and the gentleman from California (Mr. BERMAN) to re-create Radio Free Afghanistan by a margin of 405 to two. The Taliban is on its way out; but if Afghanistan is to have a chance of becoming stable, if its various factions and ethnic groups are to strike a workable governing accord, the country will need free-flowing, accurate news information.

Unfortunately, the country is starting from scratch. What media the Taliban did not corrupt, it destroyed. Looking ahead at the great challenges Afghanistan faces, it is clear to those that are on the ground that a credible and effective media will not emerge any time soon. This legislation will provide for 12 hours of broadcasting a day in the two major dialects of Afghanistan, and that is vital to the peace and stability in that country. The bill awaits action by the other body. Radio Free Europe has been heard by individuals with a message of hope and freedom for the past 50 years, and I commend Radio Free Europe and Radio Liberty on their anniversary.

Mr. Speaker, I wanted to speak on behalf of the measure of the gentleman from California (Mr. LANTOS), and also speak on the appropriate resolution today for a very distinguished American, George P. Shultz, and to thank the gentleman from Iowa (Mr. LEACH) for bringing that resolution to the floor.

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

Mr. Speaker, George P. Shultz began his career in the South Pacific in World War II. He is ending his career, to the degree it is ending, and we hope it is not fully, with a bill aimed in his honor, a facility designed to prevent further wars. I think this could not be more fitting.

Mr. GILMAN. Mr. Speaker, long before the current emphasis on training for the foreign affairs community, George Shultz had a vision of a world-class foreign affairs training center for those who staff our foreign affairs establishment. That vision eventually became the National Foreign Affairs Training Center in Arlington, Virginia, which by this act, we name it after Secretary Shultz.

With all due respect to the current occupant of that office, George Shultz is in my estimation the finest person I have had the honor of working with during his or her service as Secretary of State. He played an enormous role in the tremendous expansion of the scope of liberty in the world during the Reagan Administration, all while protecting our national security from real threats. At times, he suffered the slings and arrows of fierce partisan attack, as he advanced the sometimes unpopular policies of his Administration. He did so always with inspiring grace and intellectual honesty.

If those who serve our Nation in foreign affairs were to model themselves after George Shultz, we would do well indeed. Let us help keep his spirit in their consciousness by naming the facility he planned after this visionary Secretary of State, our friend George Shultz.

I urge all my colleagues to support this tribute to an outstanding American, Secretary of State, George P. Shultz.

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

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the bill, H.R. 3348.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HUNGER TO HARVEST: DECADE OF SUPPORT FOR SUB-SAHARAN AFRICA RESOLUTION

Mr. LEACH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Con. Res. 102) relating to efforts to reduce hunger in sub-Saharan Africa, as amended.

The Clerk read as follows:

H. CON. RES. 102

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. SHORT TITLE.

This concurrent resolution may be cited as the ''Hunger to Harvest: Decade of Support for Sub-Saharan Africa Resolution''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Despite some progress in recent years, sub-Saharan Africa enters the new millennium with many of the world's poorest countries and is the one region of the world where hunger is both pervasive and increasing.

(2) Thirty-three of the world's 41 poorest debtor countries are in sub-Saharan Africa and an estimated 291,000,000 people, nearly one-half of sub-Saharan Africa's total population, currently live in extreme poverty on less than $1 a day.

(3) One in three people in sub-Saharan Africa is chronically undernourished, double the number of three decades ago. One child out of seven dies before the age of five, and one-half of these deaths are due to malnutrition.

(4) Sub-Saharan Africa is the region in the world most affected by infectious disease, accounting for one-half of the deaths worldwide from HIV/AIDS, tuberculosis, malaria, cholera, and several other diseases.

(5) Sub-Saharan Africa is home to 70 percent of adults, and 80 percent of children, living with the HIV virus, and 75 percent of the people worldwide who have died of AIDS lived in Africa.

(6) The HIV/AIDS pandemic has erased many of the development gains of the past generation in sub-Saharan Africa and now threatens to undermine economic and social progress for the next generation, with life expectancy in parts of sub-Saharan Africa having already decreased by 10–20 years as a result of AIDS.

(7) Despite these immense challenges, the number of sub-Saharan African countries that are moving toward open economies and more accountable governments has increased, and these countries are beginning to achieve local solutions to their common problems.

(8) To make lasting improvements in the lives of their people, sub-Saharan Africa governments need support as they act to solve conflicts, make critical investments in human capacity and infrastructure, combat corruption, reform their economies, stimulate trade and equitable economic growth, and build democracy.

(9) Despite sub-Saharan Africa's enormous development challenges, United States companies hold approximately $12,800,000,000 in investments in sub-Saharan Africa, greater than United States investments in either the Middle East or Eastern Europe, and total United States trade with sub-Saharan Africa currently exceeds that with all of the independent states of the former Soviet Union, including the Russian Federation. This economic relationship could be put at risk unless additional public and private resources are provided to combat poverty and promote equitable economic growth in sub-Saharan Africa.

(10) Bread for the World Institute calculates that the goal of reducing world hunger by one-half by 2015 is achievable through an increase of $4,000,000,000 in annual funding from all donors for poverty-focused development. If the United States were to shoulder one-fourth of this aid burden—approximately $1,000,000,000 a year—the cost to each United States citizen would be one penny per day.

(11) Failure to effectively address sub-Saharan Africa's development needs could result in greater conflict and increased poverty, heightening the prospect of humanitarian intervention and potentially threatening a wide range of United States interests in sub-Saharan Africa.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States should declare ''A Decade of Support for Sub-Saharan Africa'';

(2) not later than 90 days after the date of adoption of this concurrent resolution, the President should submit a report to Congress setting forth a five-year strategy, and a ten-year strategy, to achieve a reversal of current levels of hunger and poverty in sub-Saharan Africa, including a commitment to

contribute an appropriate United States share of increased bilateral and multilateral poverty-focused resources for sub-Saharan Africa, with an emphasis on—

(A) health, including efforts to prevent, treat, and control HIV/AIDS, tuberculosis, malaria, and other diseases that contribute to malnutrition and hunger, and to promote maternal health and child survival;

(B) education, with an emphasis on equal access to learning for girls and women;

(C) agriculture, including strengthening subsistence agriculture as well as the ability to compete in global agricultural markets, and investment in infrastructure and rural development;

(D) private sector and free market development, to bring sub-Saharan Africa into the global economy, enable people to purchase food, and make health and education investments sustainable;

(E) democratic institutions and the rule of law, including strengthening civil society and independent judiciaries;

(F) micro-finance development; and

(G) debt relief that provides incentives for sub-Saharan African countries to invest in poverty-focused development, and to expand democratic participation, free markets, trade, and investment;

(3) the President should work with the heads of other donor countries and sub-Saharan African countries, and with United States and sub-Saharan African private and voluntary organizations and other civic organizations, including faith-based organizations, to implement the strategies described in paragraph (2);

(4) Congress should undertake a multi-year commitment to provide the resources to implement those strategies; and

(5) 120 days after the date of adoption of this concurrent resolution, and every year thereafter, the Administrator of the United States Agency for International Development, in consultation with the heads of other appropriate Federal departments and agencies, should submit to Congress a report on the implementation of those strategies, including the action taken under paragraph (3), describing—

(A) the results of the implementation of those strategies as of the date of the report, including the progress made and any setbacks suffered;

(B) impediments to, and opportunities for, future progress;

(C) proposed changes to those strategies, if any; and

(D) the role and extent of cooperation of the governments of sub-Saharan countries and other donors, both public and private, in combating poverty and promoting equitable economic development.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 102, the resolution under consideration.

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

There was no objection.

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

Mr. Speaker, I appreciate the cooperation of the majority leader, the gentleman from Illinois (Chairman HYDE) and the gentleman from California (Mr. LANTOS) for allowing the House to consider this Hunger to Harvest: Decade of Support for sub-Saharan Africa Resolution.

The bill was introduced by the gentleman from New Jersey (Mr. PAYNE) and me earlier this year and currently has 150 cosponsor, including many of our colleagues on the Committee on International Relations. The amendment in the nature of a substitute that the committee is offering today conforms the House version with similar language already passed by the Senate.

This resolution expresses the sense of the Congress that the United States should commit itself to acting with its partners in sub-Saharan Africa to reduce poverty and hunger on the subcontinent over the next decade.

What is most extraordinary about the 20th century in relation to the rest of human history is that economic and social development, coupled with modern medicines, caused the life spans of human beings to double on much of the planet. Tragically, the exception has been in Africa, particularly sub-Saharan Africa, where not only have life spans not been extended, but life has been shortened in the last several decades.

While sub-Saharan Africa has tremendous untapped human and economic potential, for the most part the region has not prospered. Indeed, in all of the developing regions of the world, the severity of poverty and malnutrition is greatest in that sub-continent and is also growing at the fastest rate on the Earth. Roughly 290 million people in the region, nearly half the total population, live on less than a dollar a day.

Mr. Speaker, 33 of the world's 41 most heavily indebted poor countries are in sub-Saharan Africa. According to the World Bank, those more vulnerable to poverty live in rural areas in large households which are often headed by women.

In addition, the scourge of HIV/AIDS is fast reversing many of the modest social gains which have been achieved in recent years. There are many causes for this distressing state of affairs: interstate conflict, natural disaster, corruption, underdeveloped private sectors, to name a few. While the people of sub-Saharan Africa must take ultimate responsibility for the success or failure of these countries, the United States has the moral obligation and resources to help improve the lives of millions of people living there.

This resolution directs the Agency for International Development to devise 5- and 10-year strategic plans in health, education and agriculture, and for promoting free market economies, trade investment, democracy, and the rule of law.

In closing, I would like to acknowledge the extraordinary leadership of America's faith-based community, churches, synagogues, mosques and associated institutes like Bread for the World and its thoughtful president, David Beckman, for compelling support for this resolution. It is this private, faith-based community that has awakened the conscience of the world on the need to confront the moral and development challenges of issues such as debt relief and world hunger. In their name, I urge passage of this resolution.

Before turning to the distinguished ranking member of the committee, let me thank the gentleman for his leadership and that of course of the gentleman from New Jersey (Mr. PAYNE), which has been so extraordinary on this subject.

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

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

Mr. Speaker, I rise in strong support of this resolution. First, I would like to commend the gentleman from Iowa (Mr. LEACH) for introducing this important resolution. I want to commend our Chair, the gentleman from Illinois (Mr. HYDE); and I certainly pay tribute to the chairman of the Subcommittee on Africa, the gentleman from California (Mr. ROYCE), and to the ranking member, the gentleman from New Jersey (Mr. PAYNE), whose contribution on the subject of Africa and indeed on all subjects coming before our committee is immeasurable in importance.

Mr. Speaker, each night more than 800 million people around the globe, many of them children, go to bed not knowing if they will have enough to eat the next day. Most of these poor and hungry souls live in sub-Saharan Africa. In Africa, hunger is both pervasive and growing. The sad truth is that hunger, poverty, and disease go hand in hand. A poor and hungry mother has few defenses against tuberculosis, malaria, cholera, HIV–AIDS, and other deadly diseases when hunger, too, gnaws at her body and saps her spirit.

Some of Africa's poverty is caused by decades of civil strife where the sole purpose of conflict is to rob the nation of its wealth. Resource wars fought over diamonds, oil, or simply the largess of the state leave little behind for the citizens of the nation. Mr. Speaker, this must end. These wars leave farming areas seeded with land mines instead of maize. Young boys stripped of their innocence become vicious child soldiers instead of school boys. War lords reap millions in personal gain.

Global indifference, Mr. Speaker, has caused some of the Africa's poverty. The ubiquitous faces of hungry African

children cease to stir concern in rich countries as new crises arise that affect our own lives. One is only stirred from the seeming banality of Africa's hunger when one truly looks into the eyes of a malnourished child or a helpless mother. It has become too easy to turn away and worry instead about tax relief or global trade or school reform.

Mr. Speaker, taxes, trade and education matter; but they do not relieve us of our obligation to care for Africa's poor and hungry. Despite immense challenges, the number of sub-Saharan African countries digging deep to find local solutions to their problems is growing. They are moving toward open economies and more accountable and transparent government. To make long-term, sustainable improvements in the lives of their people, African governments need the support that we can give them to resolve their conflicts, make critical investment in human capacity and infrastructure, combat corruption, reform their economies, and ultimately build democracy. They do not need handouts, but they certainly do need us to join hands.

Mr. Speaker, we can come together with those African leaders who are ready to act responsibly. We can build strong economic relationships that combat poverty and promote equitable economic growth in Africa. Together we can address effectively Africa's human needs and bring about a continent with a different face, a face no longer filled with hunger, hopelessness and despair, but one etched with promise, prosperity and hope.

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Mr. Speaker, the Hunger to Harvest Resolution is a very important piece of legislation. Its passage will put Congress on record in support of efforts to alleviate hunger in Africa, and I ask every one of our colleagues to vote in support of this resolution.

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

Mr. LEACH. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, I rise in support of this legislation, and I rise to commend the gentleman from Iowa (Mr. LEACH) for his humanitarian efforts and his work over the years with AID and his efforts to bring focus on this issue of hunger in Africa, and also to commend the gentleman from New Jersey (Mr. PAYNE), the ranking member of the Subcommittee on Africa, for his efforts to raise before this body this critically important issue of what we can do to reduce hunger in sub-Saharan Africa.

Far too little progress has been made over the years in fighting hunger. I believe that Congress has taken several tangible steps, in addition to this Hunger to Harvest legislation, that have helped in some way to reduce poverty and hunger in Africa. One that I wanted to focus on for just a minute was the fact that in May of 2000, after years of effort, Congress passed and the President signed into law the African Growth and Opportunity Act. Although the bill has only been in effect for a year, it has had a very positive development impact in terms of some of the poorest African countries.

I will give my colleagues two examples: Malawi and Madagascar, two of the world's poorest countries, have experienced a 70 percent and 120 percent increase respectively in trade with the United States, causing a direct increase there in jobs and causing an increase in income to the neediest people in those countries; and that means food on the plates of children who might otherwise not eat, and shoes on their feet.

Mr. Speaker, we should do more in fighting hunger in Africa, and this resolution focuses on that issue, and we should also do more to promote trade with Africa, which is good for African countries and, frankly, good for America too. With a global economic slowdown underway, Africa is one of the few regions in the world, frankly, where we are increasing trade, and Africa wants to do business with the United States.

The U.S. has a growing commercial interest there. It has a growing strategic interest in Africa which has been described as the ''soft underbelly'' in our war against terrorism but, most important for us, the U.S. has an important humanitarian interest there. America has always had that humanitarian interest in Africa. I want to commend these Members of Congress who have routinely tried to keep that focus on that issue, and it is that interest that the Hunger to Harvest legislation speaks to.

So I again wanted to commend the gentleman from Iowa (Mr. LEACH) and to commend the gentleman from New Jersey (Mr. PAYNE) for their efforts.

Mr. LANTOS. Mr. Speaker, I am delighted to yield such time as he may consume to our distinguished colleague, the gentleman from New Jersey (Mr. PAYNE), my dear friend, who has been our leader on our side of the aisle on all issues relating to these matters.

Mr. PAYNE. Mr. Speaker, I rise in strong support of H. Con. Res. 102.

Let me thank the gentleman from Illinois (Mr. HYDE) for moving this important piece of legislation through and the ranking member, the gentleman from California (Mr. LANTOS), whose long interest in foreign affairs throughout the world and his own experience has been an example of leadership to our committee. Let me commend the gentleman from California (Mr. ROYCE), who has led the Subcommittee on Africa into a forward-moving committee, and the gentleman from Iowa (Mr. LEACH), who not only on this bill dealing with hunger, but his leadership on legislation focusing the attention of the Global AIDS Fund with the gentlewoman from California (Ms. LEE), who should be commended for his tireless effort on behalf of people of the world who are less fortunate.

While the Nation's attention is understandably with the war in Afghanistan, Congress has made a firm pledge to poor and hungry people in Africa with this legislation, H. Con. Res. 102, Hunger to Harvest: A Decade of Concern for Africa, which calls for significant new poverty-focused development assistance to sub-Saharan Africa. Hunger to Harvest would increase poverty-focused assistance to sub-Saharan Africa by $1 billion. According to Bread for the World, the national grass-roots organization that works with antihunger programs, and they have actively lobbied for this bill, a commitment of $4 billion a year from the G–8 countries would cut world hunger in half by the year 2015. The U.S. share of that would be $1 billion, which translates into a mere penny a day for each American. We can certainly afford that. We have the means to effectively attack hunger and we have the means to feed every child in the world where, as it has been mentioned, 200 million children out of 800 million people go hungry every day. We have the means to save the precious lives of innocent children when, in developing countries, 6 million children die every year, mostly because of hunger-related illnesses.

The world produces enough food to feed its growing population, so the issue is not the sufficiency of food. The issue is about access and distribution. The long-term solution to hunger in sub-Saharan Africa, therefore, must include strengthening agriculture as a source of food and income and improving basic health and education in sub-Saharan Africa.

We cannot as a country say we are for development and not deal with the issue of hunger, which inhibits progress, growth, and life, nor can we effectively fight the war on terrorism and win if we do not deal with conditions of hunger and poverty which can lead to feelings of disillusionment and marginalization. Helping Africa work its way to prosperity is not only the right thing to do but it also makes good sense to America's workers. The United States holds approximately $13 billion in investments in sub-Saharan Africa, more than in the Middle East or Eastern Europe, and the total U.S. trade with sub-Saharan Africa exceeds that of the entire former Soviet Union.

What Congress will do in enthusiastically passing the Hunger to Harvest Resolution is join our G–8 partners and the World Bank in expressing support for the long-term development initiatives of African governments as expressed in the new Program for African Development announced by Presidents

Mbeki of South Africa, Obasanjo of Nigeria, Wade of Senegal, and Bouteflika of Algeria.

I have been inspired by this bipartisan effort and by the work of Bread for the World. With more than a third of the Members of the House cosponsoring this resolution from both sides of the aisle, I think together we can fight hunger and poverty in Africa. Let me once again commend the gentleman from Iowa (Mr. LEACH) who has fought tirelessly to reach this milestone. While our two parties may disagree on some issues, it is wonderful to see that ending hunger and aiding in Africa's development is something we can all agree on.

At a time when more and more Americans say the U.S. would benefit from greater involvement in world affairs, America has helped put Congress on record.

Mr. Speaker, I ask our colleagues to pass this bill.

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

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

In conclusion, let me again thank the gentleman from California (Mr. LANTOS), the gentleman from New Jersey (Mr. PAYNE), and the gentleman from California (Mr. ROYCE) for their leadership on so many African issues. Symbolically, this bill is about the world family, about kids and their grandparents. If we keep our priorities right, the likelihood of moral and national splintering becomes remote. If, on the other hand, we wear blinkers, chaos is inevitable. The American national spirit, as well as our national interest, is interlinked with the commitment to end despair in the furthest reaches of the globe. Hope is the only hope for the world today.

Mr. GILMAN. Mr. Speaker, I would like to take time to voice my support for H. Con. Res. 102. Sub-Saharan Africa is clearly a region afflicted by poverty. Despite some positive economic and political changes in sub-Saharan Africa, it remains an area of the world where hunger is pervasive and steadily increasing with one of every three persons being chronically undernourished. This hunger has multiple causes, including severe poverty, the HIV/AIDS pandemic, civil wars, continued foreign debt, degraded land, and inadequate education.

African nations need additional U.S. aid to develop their human and natural resources—and thereby strengthen their capacity to deal with hunger, poverty, and related problems. Sub-Saharan Africa needs additional resources to improve farming and support farmer-owned businesses; help prevent and treat HIV/AIDS, malaria, tuberculosis, and other infectious diseases; encourage the enrollment of more children in school; and help develop microenterprises and other business opportunities.

However, assistance alone will not solve their problems. Although such poverty-focused development aid has proven effective, our efforts to assist sub-Saharan Africans to overcome poverty must remain focused on encouraging their participation in the private sector. The foundation for sustained economic growth in sub-Saharan Africa depends upon the development of an environment receptive to trade and investment. This can only be brought about by investments in human resources, domestic economic development, the implementation of free market policies, and the widespread application of the rule of law and democratic governance by the sub-Saharan nations themselves.

I urge support for this measure.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of H. Con. Res. 102, the Hunger to Harvest Resolution: A Decade of Concern for Africa. Additionally, this Member, as a cosponsor of this resolution, would like to thank the distinguished gentleman from Iowa (Mr. LEACH) and the distinguished gentleman from New Jersey (Mr. PAYNE) for introducing this important legislation.

Mr. Speaker, the terrorist attacks of September 11th highlighted the extent to which American security is placed at risk when the U.S. fails to provide development aid and assistance to areas in peril of falling into the hands of unfriendly regimes. Indeed, sub-Saharan Africa currently faces many of the same conditions which coalesced to create the Afghanistan in which the Taliban has thrived. Much of sub-Saharan Africa has fought ravaging civil wars, demoralizing poverty, recurring droughts, and debilitating disease.

This country's own long-term security depends to a large extent on stability in sub-Saharan Africa. The mirco-enterprise, agriculture development, debt relief, and health programs which are outlined in this bill have the potential to serve as key investments in preventing terrorism against the U.S. and against U.S. interests.

Mr. Speaker, this Member strongly urges his colleagues to vote for H. Con. Res. 102.

Mr. MATHESON. Mr. Speaker, I am grateful today for the opportunity to speak on a topic that is important to all Americans.

The issue of hunger in sub-Saharan Africa strikes at the very core of our nation's values. The current situation in this part of the world is both alarming and poignant. Many of the people in this region suffer from disease, malnutrition, and hunger. The suffering of so many is attributed to the lack of such basic needs as food and adequate shelter which makes the situation all the more disturbing.

Currently the American people are focused on overcoming recent tragedy and forging new roads toward progress and prosperity. The humanity and compassion that the people of this nation have displayed transcends geographical borders. As noted in H. Con. Res. 102, the majority of Americans want to see the United States, along with the rest of the world, join together in a concerted effort to alleviate world hunger.

As the United States leads the world into the twenty-first century, we must ensure that we leave no one behind. There is a risk that if left unresolved, the gap between rich and poor nations of the world will only increase. It is important that the United States lead the world in showing a real commitment to eliminating the suffering of the world's hungry. While it is important that we act quickly, we must also be willing to persevere in order to create real and lasting change.

Sub-Saharan Africa is a region fraught with many problems. One in three people are chronically undernourished, leading one-seventh of all children to die before they are five years old. Upwards of 70 percent of all AIDS patients reside in sub-Saharan Africa, and though almost half of its population survives on less than $1 a day, U.S. companies hold $15 billion in investments there—more than either the Middle East or Eastern Europe.

Mr. Speaker, I am confident that this resolution takes the necessary steps to begin substantial change. H. Con. Res. 102 calls for the engagement of other nations in a multi-lateral effort to be conducted for several years. Through a multi-year commitment to funding health, education, agriculture, and micro-finance programs, as well as debt relief, we can show our commitment to real progress. I encourage my colleagues to vote for this resolution, declare "A Decade of Concern" for sub-Saharan Africa, and begin the process of alleviating this human suffering.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to express my strong support for H. Con. Res. 102. This resolution highlights the stark realities facing the African sub-continent at the precipice of this millennium, and highlights the commitments that the United States must make in order to further the health and safety of the African peoples.

The findings in this resolution tell a stark story. Africa is the one area of the world where hunger is both pervasive and increasing; 33 of the 41 poorest debtor countries are in sub-Saharan Africa. Nearly half of the total population of this geographic population lives on less than $1 a day; 70 percent of the adults and 80 percent of children living with HIV are in Africa, and two-thirds of worldwide deaths due to the ravages of AIDS have taken place there.

Mr. Speaker, the American people overwhelmingly think that the U.S. should commit to cutting world hunger in half by 2015. Private organizations such as Bread of the World estimate that the U.S. burden for this project would be around a penny per day. This makes Congress' action here that much more important.

Mr. Speaker, I share the sense of this body that "a moral people cannot tolerate the existence of hunger, poverty, and disease in any part of the world." This nation should declare a "Decade of Concern for Africa" and commit to increased levels of poverty focused development assistance across sub-Saharan Africa. I agree that this support should be focused on the immediate needs of the African Diaspora by directing funding toward health and HIV prevention, education and equal learning for girls and women, agriculture and sustainable development, and bilateral and multilateral debt relief that acknowledges the West's role in creating instability in Africa.

By passing this resolution, this Congress moves closer to my goal of a stable, healthy, and viable Africa for all its nations and peoples. This body follows the efforts of the Congressional Black Caucus to highlight the horrific conditions at play in the region. In light of the U.S. actions during the recent U.N. Conference Against Racism held in South Africa,

this resolution establishes that the American people are humane and compassionate.

Mr. Speaker, I am again happy to support this resolution, and encourage all members to further its goals of a stable, healthy, and hunger-free Africa.

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

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 102, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ZIMBABWE DEMOCRACY AND ECONOMIC RECOVERY ACT OF 2001

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 494) to provide for a transition to democracy and to promote economic recovery in Zimbabwe, as amended.

The Clerk read as follows:

S. 494

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 ''Zimbabwe Democracy and Economic Recovery Act of 2001''.

SEC. 2. STATEMENT OF POLICY.

It is the policy of the United States to support the people of Zimbabwe in their struggle to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law.

SEC. 3. DEFINITIONS.

In this Act:

(1) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term ''international financial institutions'' means the multilateral development banks and the International Monetary Fund.

(2) MULTILATERAL DEVELOPMENT BANKS.—The term ''multilateral development banks'' means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

SEC. 4. SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.

(a) FINDINGS.—Congress makes the following findings:

(1) Through economic mismanagement, undemocratic practices, and the costly deployment of troops to the Democratic Republic of the Congo, the Government of Zimbabwe has rendered itself ineligible to participate in International Bank for Reconstruction and Development and International Monetary Fund programs, which would otherwise be providing substantial resources to assist in the recovery and modernization of Zimbabwe's economy. The people of Zimbabwe have thus been denied the economic and democratic benefits envisioned by the donors to such programs, including the United States.

(2) In September 1999 the IMF suspended its support under a ''Stand By Arrangement'', approved the previous month, for economic adjustment and reform in Zimbabwe.

(3) In October 1999, the International Development Association (in this section referred to as the ''IDA'') suspended all structural adjustment loans, credits, and guarantees to the Government of Zimbabwe.

(4) In May 2000, the IDA suspended all other new lending to the Government of Zimbabwe.

(5) In September 2000, the IDA suspended disbursement of funds for ongoing projects under previously-approved loans, credits, and guarantees to the Government of Zimbabwe.

(b) SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.—

(1) BILATERAL DEBT RELIEF.—Upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury shall undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by any agency of the United States Government.

(2) MULTILATERAL DEBT RELIEF AND OTHER FINANCIAL ASSISTANCE.—It is the sense of Congress that, upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury should—

(A) direct the United States executive director of each multilateral development bank to propose that the bank should undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by that bank; and

(B) direct the United States executive director of each international financial institution to which the United States is a member to propose to undertake financial and technical support for Zimbabwe, especially support that is intended to promote Zimbabwe's economic recovery and development, the stabilization of the Zimbabwean dollar, and the viability of Zimbabwe's democratic institutions.

(c) MULTILATERAL FINANCING RESTRICTION.—Until the President makes the certification described in subsection (d), and except as may be required to meet basic human needs or for good governance, the Secretary of the Treasury shall instruct the United States executive director to each international financial institution to oppose and vote against—

(1) any extension by the respective institution of any loan, credit, or guarantee to the Government of Zimbabwe; or

(2) any cancellation or reduction of indebtedness owed by the Government of Zimbabwe to the United States or any international financial institution.

(d) PRESIDENTIAL CERTIFICATION THAT CERTAIN CONDITIONS ARE SATISFIED.—A certification under this subsection is a certification transmitted to the appropriate congressional committees of a determination made by the President that the following conditions are satisfied:

(1) RESTORATION OF THE RULE OF LAW.—The rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association, and an end to the lawlessness, violence, and intimidation sponsored, condoned, or tolerated by the Government of Zimbabwe, the ruling party, and their supporters or entities.

(2) ELECTION OR PRE-ELECTION CONDITIONS.—Either of the following two conditions is satisfied:

(A) PRESIDENTIAL ELECTION.—Zimbabwe has held a presidential election that is widely accepted as free and fair by independent international monitors, and the president-elect is free to assume the duties of the office.

(B) PRE-ELECTION CONDITIONS.—In the event the certification is made before the presidential election takes place, the Government of Zimbabwe has sufficiently improved the pre-election environment to a degree consistent with accepted international standards for security and freedom of movement and association.

(3) COMMITMENT TO EQUITABLE, LEGAL, AND TRANSPARENT LAND REFORM.—The Government of Zimbabwe has demonstrated a commitment to an equitable, legal, and transparent land reform program consistent with agreements reached at the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998.

(4) FULFILLMENT OF AGREEMENT ENDING WAR IN DEMOCRATIC REPUBLIC OF CONGO.—The Government of Zimbabwe is making a good faith effort to fulfill the terms of the Lusaka, Zambia, agreement on ending the war in the Democratic Republic of Congo.

(5) MILITARY AND NATIONAL POLICE SUBORDINATE TO CIVILIAN GOVERNMENT.—The Zimbabwean Armed Forces, the National Police of Zimbabwe, and other state security forces are responsible to and serve the elected civilian government.

(e) WAIVER.—The President may waive the provisions of subsection (b)(1) or subsection (c), if the President determines that it is in the national interest of the United States to do so.

SEC. 5. SUPPORT FOR DEMOCRATIC INSTITUTIONS, THE FREE PRESS AND INDEPENDENT MEDIA, AND THE RULE OF LAW.

(a) IN GENERAL.—The President is authorized to provide assistance under part I and chapter 4 of part II of the Foreign Assistance Act of 1961 to—

(1) support an independent and free press and electronic media in Zimbabwe;

(2) support equitable, legal, and transparent mechanisms of land reform in Zimbabwe, including the payment of costs related to the acquisition of land and the resettlement of individuals, consistent with the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998, or any subsequent agreement relating thereto; and

(3) provide for democracy and governance programs in Zimbabwe.

(b) FUNDING.—Of the funds authorized to be appropriated to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 2002—

(1) $20,000,000 is authorized to be available to provide the assistance described in subsection (a)(2); and

(2) $6,000,000 is authorized to be available to provide the assistance described in subsection (a)(3).

(c) SUPERSEDES OTHER LAWS.—The authority in this section supersedes any other provision of law.

SEC. 6. SENSE OF CONGRESS ON THE ACTIONS TO BE TAKEN AGAINST INDIVIDUALS RESPONSIBLE FOR VIOLENCE AND THE BREAKDOWN OF THE RULE OF LAW IN ZIMBABWE.

It is the sense of Congress that the President should begin immediate consultation with the governments of European Union member states, Canada, and other appropriate foreign countries on ways in which to—

(1) identify and share information regarding individuals responsible for the deliberate breakdown of the rule of law, politically motivated violence, and intimidation in Zimbabwe;

(2) identify assets of those individuals held outside Zimbabwe;

(3) implement travel and economic sanctions against those individuals and their associates and families; and

(4) provide for the eventual removal or amendment of those sanctions.

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

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

GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 494.

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

There was no objection.

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

Mr. Speaker, I would like to begin by expressing my appreciation to the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, and the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, for moving this important legislation. I would also like to express my appreciation to the gentleman from California (Mr. LANTOS), the ranking member of the Committee on International Relations, and the gentleman from New Jersey (Mr. PAYNE), the ranking member of the Subcommittee on Africa that I chair, for their support of this bill. With elections approaching in Zimbabwe, and the conditions on the ground deteriorating, it is important that we pass the Zimbabwe Democracy and Economic Recovery Act of 2001 before this Congress adjourns.

In Zimbabwe we are sadly seeing a dictator there literally burning his country down. I feel that he is very desperate there to keep his perks and avoid accountability for his crimes. As a consequence of that, he has sanctioned utter anarchy in his homeland in an attempt to win an election that he has been pressured by Zimbabweans into holding. I think that if he had his way, Mr. Mugabe would undoubtedly run Zimbabwe as a one-party State as he did run it during the 1980s, but Mugabe has spared no means in his attempt to suppress democratic expression in Zimbabwe. His ZANU–PF Party thugs have employed murder, mass beatings, systematic torture, gang rape, house burning, death threats, and every type of police brutality. And while Zimbabwe police are quick to crack down on peaceful political protests, violent ZANU–PF operatives are rarely brought to justice. The Zimbabwe Lawyers for Human Rights group has observed that it is ''outraged by the continued brutality, lack of respect for fundamental human rights and political partisanship of the Zimbabwe Republic Police.'' Offices of the political opposition there are routinely fire-bombed. Dozens of political opponents have been murdered in State-sanctioned violence, yet Mr. Mugabe does not speak out against those doing the violence. Instead, President Mugabe calls the peaceful political opposition ''terrorists'' and vows to crush them.

□ 1500

For Zimbabweans, it is a sad irony that the Mugabe Government represses political opponents with the same Law and Order Maintenance Act which Ian Smith's Rhodesian repressive government pioneered to prevent majority rule there.

Having led a congressional delegation to Saudi Arabia some years back, I saw then the climate of fear the Zimbabwe Government long ago created. This legislation provides reasonable guidelines for U.S. engagement with Zimbabwe. It expresses the United States' interest in assisting the Zimbabwean people with economic development; and it provides funding for such efforts, but only when the climate is right, that is, when the rule of law has been established and when free and fair elections are possible.

We must be realistic, though. The prospects are increasingly remote that the presidential elections, which must be held by March, will be free and fair. The U.S.-based International Foundation for Electoral Systems has been chased from the country.

The government rejected a call by the European Union to allow for election monitors. While it recently relented on its decision, it is likely to reverse course. The government is likely to again prohibit those observers from coming in for the elections.

I was scheduled to lead an election observation team for the 2000 parliamentary elections there, but the Zimbabwean Government pulled the visas at the last minute.

A U.S. District Court judge in New York recently ruled that Zimbabwe's governing political party, ZANU–PF, was liable for murdering and torturing its political opponents in the run-up to those elections. The court found that ZANU–PF, in its organized violence and methodological terror, worked in tandem with Zimbabwean Government officials. That was in the year 2000. The current Mugabe Government has never changed its modus operandi.

Mugabe is doing all that he can to see that the world is not watching him. The Washington Post and the New York Times reporters have been denied visas to cover the chaos there. The BBC was booted out in July. Foreign journalists are routinely harassed and intimidated.

It is Zimbabwean journalists, though, that have borne the brunt of it. Newspaper offices have been bombed. Against this, we have seen many profiles in courage. Jeff Nyarota, editor of the Daily News, Zimbabwe's only independent newspaper, recently won the New York-based Committee to Protect Journalists Press Freedom Award for his courageous work uncovering government corruption.

I am certain that this legislation is a morale boost to brave Zimbabwean journalists who fear that the world ignores them. Let me just say a word about the economy there.

Predictably, the Zimbabwean economy is now in ruins. With farmland under government siege, half a million Zimbabweans face starvation in a country that traditionally produces enough food to export. The current government is oblivious to the suffering of the people there.

ZANU–PF leadership, though, is not hurting. The U.N. recently reported how Zimbabwean troops are clear-cutting invaluable forests in the Democratic Republic of Congo, and proceeds from this environmental crime assuredly are going to supporting the luxurious lifestyle of Zimbabwe's ruling elite.

This legislation, importantly, asks the administration to begin a process of identifying the assets of those involved, those military personnel involved in just that effort, and to impose personal economic sanctions against them for breaking down the rule of law in Zimbabwe. It does not affect trade, however.

This legislation provides aid for lawful and transparent land resettlement, and I believe that this will have to come after there is a new government. We should not lose sight of the fact that President Mugabe has created the current land crisis. He has sanctioned the violent land invasions and the murders of Zimbabweans, black and white, precisely because it serves his political interests. That is why many attempts by the international community to aid a lawful land reform program have gone for naught.

The latest attempt, the Abuja Agreement, has fallen apart, with the Mugabe Government intensifying farm invasions and violence. President Mugabe's land reform program has been to take land and give it to the generals and to give it to his political associates. Recent reports have him now giving land to Libyan business partners.

The Mugabe Government has shown little interest in the welfare of the people of Zimbabwe, and that is why we need to move this legislation.

Mr. Speaker, I include for the RECORD an exchange of letters between the gentleman from Ohio (Chairman OXLEY) of the Committee on Financial Services and Chairman HYDE concerning the Senate bill, S. 494:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, November 30, 2001.

Hon. HENRY J. HYDE,
Chairman, Committee on International Relations, Washington, DC.

DEAR MR. CHAIRMAN: I understand that on November 28, 2001, the Committee on International Relations ordered S. 494, the Zimbabwe Democracy and Economic Recovery Act of 2001, reported to the House. As you know, the Committee on Financial Services was granted the primary referral of the bill upon its introduction pursuant to the Committee's jurisdiction over debt relief and other financial assistance under Rule X of the Rules of the House of Representatives.

Because of the importance of this matter and your commitment to address this Committee's concerns, I recognize your desire to bring this legislation before the House in an expeditious manner and will waive consideration of the bill by the Financial Services Committee. By agreeing to waive its consideration of the bill, the Financial Services Committee does not waive its jurisdiction over S. 494. In addition, the Committee on Financial Services reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Financial Services for conferees on S. 494 or related legislation.

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

Thank you for your attention to these matters.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, November 29, 2001.

Hon. MICHAEL OXLEY,
Chairman, Committee on Financial Services, Washington, DC.

DEAR MR. CHAIRMAN: I am writing you concerning the bill S. 494, Zimbabwe Democracy and Economic Recovery Act of 2001, which this Committee ordered reported yesterday. I recognize that the bill was jointly referred to the Committee on Financial Services based on your Committee's jurisdiction over language relating to debt relief and other financial assistance.

It is my intention to take this matter up under suspension of the rules. While recognizing your jurisdiction over this subject matter, I would appreciate your willingness to waive your right to consider this bill without waiving your jurisdiction over the general subject matter. I will support the Speaker's naming Members of your Committee as conferees on the matter should it get to conference.

As you have requested, I will include this exchange of letters in the Record during consideration of the resolution.

I appreciate your assistance in getting this important bill to the floor.

Sincerely,

HENRY J. HYDE,
Chairman.

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

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

Mr. Speaker, I rise in strong support of S. 494, the Zimbabwe Democracy and Economic Recovery Act.

First, I would like to commend the distinguished chairman of the Subcommittee on Africa, my good friend and fellow Californian, the gentleman from California (Mr. ROYCE), and the ranking minority member, our distinguished colleague, the gentleman from New Jersey (Mr. PAYNE), for their active pursuit of human rights, democracy, and decency in Zimbabwe, and for their strong support for this legislation.

I also want to thank the gentleman from Illinois (Mr. HYDE), the chairman, for expediting the consideration of this important legislation.

Mr. Speaker, the Zimbabwe Democracy and Economic Recovery Act of 2001 is designed to support the people of Zimbabwe, and provides a clear strategy for the United States and Zimbabwe to reengage in normal political and economic activity. This is an incentives bill, not a sanctions bill, Mr. Speaker.

Our legislation provides that the United States will initiate a plan to promote Zimbabwe's economic recovery, but only after certain political conditions will have been met. These conditions include restoring the rule of law, ensuring a positive pre-election environment, pursuing equitable legal and transparent land reform, and ensuring civilian control of both the military and the police.

The House is acting on this legislation today because, unfortunately, the situation in Zimbabwe is increasingly grim. Partisan political violence condoned and encouraged by Mugabe has crippled a once prosperous economy. Once an exporter of maize, Zimbabwe is set to run out by February of this coming year. Without emergency humanitarian assistance, thousands of Zimbabweans will go hungry, fall prey to disease, and starve.

Mugabe has made the so-called land question central to his political campaign and used it to justify pervasive violence. He has unleashed so-called war veterans and party militants on black farm workers, white farmers, journalists, professionals, academics, and indeed, anyone who opposes his land seizure policy.

His policy has not unified the country behind him. To the contrary, according to the most recent opinion poll, his criminal practice is turning the people of Zimbabwe against him.

Mr. Speaker, Zimbabwe's economic and political disaster threatens the whole of southern Africa. The Presidents of Africa's three largest economies, South Africa, Nigeria, and Algeria, recently launched a new Partnership for Africa's Development. This plan calls for a new relationship between Africa and the international community; and it is premised on the African states making commitments to good government, democracy, and human rights. Zimbabwe, under Mugabe, is the antithesis of this vision.

Mr. Speaker, our bill provides a set of incentives for Mugabe and his government to move in the right direction, away from intimidation, violence, corruption, and Draconian economic policies towards land reform that reflects the rule of law, policies that restore an independent judiciary, allow political competition, and support a free and independent media.

Mr. Speaker, I urge all of our colleagues to vote for this bill. It will send a strong signal to Mugabe that the people of America reject the violent situation he has created and that we support the people of Zimbabwe.

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

Mr. ROYCE. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. FLAKE).

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

I want to thank the Committee on International Relations, and particularly the gentleman from California (Mr. ROYCE), for bringing this issue to the fore, Mr. Speaker, and for fighting for its adoption. I want to applaud the committee for improving the document as it went forward into a bill that we can all support.

Mr. Speaker, I had the great privilege in the early 1980s of spending time in Zimbabwe just soon after the transition to independence. There was great hope at that point. The people had hoped that the rule of law and democracy would flourish and take hold.

Twenty years later, that has not been the case. We have a brutal dictator there who simply does not want to give up power. He does not want to assent to the rule and to the will of the people.

That is unfortunate. With this legislation we hope, and the purpose of it is, to help those forces in Zimbabwe who want to bring back democracy and the rule of law.

Mr. Speaker, I want to caution my colleagues, all of us, to avoid the kind of drive-by diplomacy that often characterizes our action in Africa and other third world countries, when we will pay attention when the issue is hot; and then after a successor regime comes in, we forget about the country and move on, sometimes leaving sanctions in place or other items that the successor regime has to work out of.

I hope we do not do that. I am pleased that this bill is not a sanction bill; that it seeks to target individuals, rather than target trade in general.

Mr. Speaker, I look forward one day soon to saying to the people of Zimbabwe, coda ko tu, which means in Shona, congratulations; congratulations on a return to free and fair elections and on their return to the rule of law.

Mr. LANTOS. Mr. Speaker, I am delighted to yield such time as he may consume to our distinguished colleague, the gentleman from New Jersey

(Mr. PAYNE), who probably has more experience in this part of the world than any of us, and has been a leader on this issue.

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

Let me once again commend the gentleman from California (Mr. ROYCE), the chairman of the subcommittee, and the gentleman from Illinois (Mr. HYDE), who brought this before the full committee, and as I indicated, the leadership of the gentleman from California (Mr. LANTOS) on Committee on International Relations, on which he has served for so many years.

Mr. Speaker, Zimbabwe is one of the most important countries in Africa. Many of us remember the people of Zimbabwe's courageous struggle for independence that took many years of fighting with Mr. Nkomo and Mr. Mugabe and others.

As I recently said in a letter to President Mugabe, indeed, post-independence Zimbabwe clearly demonstrates much of the best of Africa and what Africans are capable of doing, despite decades of repressive white rule, as we saw in Rhodesia, by Ian Smith's government.

After independence, white Zimbabweans were embraced, not chased out of the country, nor mistreated, as many cynics predicted would happen. Human rights were largely respected and the rule of law prevailed across the country.

Mr. Speaker, Zimbabwe has long been a model country with a stable government, a good educational system, and a modern economy. But in recent years, conditions have gone from bad to worse, in large part due to poor leadership. The economy is in shambles, human rights abuses are extensive, and there seems to be little respect for the rule of law. The once vibrant independent press is under intense pressure, and the independence of the judiciary has been compromised due to intrusive government actions.

The United States is not the only government concerned about the deteriorating situation in Zimbabwe. According to an article in today's New York Times, several neighboring countries, including South Africa and Botswana, have expressed their frustrations with the government of Zimbabwe's obstructionist behavior.

The Zimbabwe Democracy and Economic Recovery Act is a small effort on our part to help bring much needed stability to Zimbabwe. Why this legislation now and why Zimbabwe? Simple: Zimbabwe is too important to ignore, and the legislation offers a credible policy option to deal with the challenges that face Zimbabwe today.

Unfortunately, the situation in Zimbabwe is deteriorating by the day. Dozens of people have been killed, the rule of law is nonexistent, and authoritarian tendencies have reached a very dangerous level.

I strongly believe it is in our interests and in the interests of Zimbabwe and Africa not to allow another African country to go down this way.

□ 1515

Instability in Zimbabwe threatens the entire sub-region of southern Africa. We cannot afford to have another Somalia in southern Africa.

Mr. Speaker, some people have deliberately portrayed this legislation as punitive, and sanction legislation. They are dead wrong. What are the key objectives? Simply put, Zimbabwe Democracy and Economic Recovery Act has three key objectives. One, a just and equitable land reform, consistent with the rule of law. Two, a conducive environment for free and fair elections. And, three, the respect for human rights and the rule of law.

Mr. Speaker, if the above conditions are met by the Government of Zimbabwe, the legislation, one, authorizes $20 million for land reform, and an additional $6 million to promote democracy. Two, it will assist in debt relief. Three, it will support lifting of restrictions by the IMF and the World Bank. Fourth, we would urge our country to have AGOA, the Africa Growth and Opportunity Act, introduced in Zimbabwe.

So this is a bill to say let us have transparent elections. Let us allow the rule of law. Let us let the independent parties have their platform told. And by doing that we will embrace and we will move Zimbabwe back.

Mr. Speaker, this is a good bill that will go a long way in strengthening our ties with the people of Zimbabwe who truly deserve our support. We must be steadfast in our commitment to the people of Zimbabwe. We should not and must not turn a blind eye to abuses in Zimbabwe, and therefore I urge all of my colleagues to support this legislation.

Mr. ROYCE. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. COOKSEY).

Mr. COOKSEY. Mr. Speaker, I would like to echo the remarks of my friend, the gentleman from New Jersey (Mr. PAYNE). I feel that he knows more and has done more than probably most anyone else in this body for the people of Africa. He has been there many times. He knows it well and he has worked hard.

The chairman of the subcommittee, the gentleman from California (Mr. ROYCE) has worked equally hard and, I feel, been equally effective.

What does this bill call for? This bill calls for support of democratic institutions. It calls for a free press and independent media. And yes, it calls for the rule of law, including private property rights. These seem like simple expectations, but yet they would be major, major advances for the people of Zimbabwe.

What does this bill offer? What does it threaten? First, there are no sanctions involved. There is the offer of debt relief and there is the offer of aid for land reform if the people of Zimbabwe, if the Government of Zimbabwe is able to carry out these changes.

Land reform seems to be the major issue. I appreciate those calling for land reform and I agree that land reform is the key to Zimbabwe's future. But why has land reform not worked in Zimbabwe? Basically Mugabe has essentially stolen the money that he had that had been given to this country to carry out land reform. He distributes the land that has already been purchased, purchased with international money in many cases, a major portion of it from the U.K., and there were countries lined up in 1998 to give a major amount of money to this country. But Zimbabwe under the leadership of Mugabe has given this land, the money, to his political cronies, to the fat cats, to the generals, to his political supporters. He distributes the land that has already been purchased to his allies and not to the people of Zimbabwe who need it. Even Mugabe's fellow African leaders recognize that Mugabe's policies are the reason that land reform has not worked.

Mugabe was an important leader but he stayed too long. He now cares solely for his own power, not for the welfare of his people. But he is resorting to violence to hold onto his own power. The time for such dictators has passed.

There are neighboring countries, Botswana, South Africa, Malawi, all of whom have democratic institutions, free press and the rule of law.

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

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

Mr. Speaker, in closing, what a depressing contrast between Zimbabwe's Robert Mugabe and South Africa's Nelson Mandela. President Mandela prized democracy. He prized the rule of law. He stepped down from power when people were telling him he was a king. He brought races together. And we contrast that with the situation where President Mugabe threatens his political opponents with death.

What we have in Zimbabwe is a man who sends his operatives to terrorize teachers, to terrorize teachers because they are the poll guards basically, they are the individuals who do the monitoring of the elections; to terrorize the doctors, and to terrorize others working for a better future.

A recent Zimbabwe Catholic Bishops' Conference Pastoral letter noted, ''Violence, intimidation, and threats are the tools of failed politicians.'' They are the dastardly tools of the men now ruling Zimbabwe.

The political opposition in Zimbabwe deserves credit for remaining peaceful

in the face of violence. For years now, its members have been beaten, they have been tortured, they have been killed; and they have resisted going on an offensive throughout this. Their discipline will be further tested in the coming months as the Mugabe regime provokes unrest to legitimize canceling the elections.

I hope that the political opposition remain steadfastly committed to nonviolence. I have great confidence in the brave Zimbabweans who are struggling against tyranny so that their country can begin to reach its potential.

The legislation we are considering today lays a foundation for the U.S. to contribute to that future, and I ask that my colleagues support Senate bill 494.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of S. 494, the Zimbabwe Democracy and Economic Recovery Act of 2001. This Member would like to thank the Chairman of the House International Relations Committee, the distinguished gentleman from Illinois (Mr. HYDE), for bringing this measure to the Floor expeditiously after the Committee's consideration of it. In addition, this Member would like to thank the Chairman of the House Financial Services Committee, the distinguished gentleman from Ohio (Mr. OXLEY) for his supportive role in this legislation. This Member also appreciates the Chairman of the International Relations Subcommittee on Africa, the distinguished gentleman from California (Mr. ROYCE), for his longstanding dedication to following U.S. foreign policy toward Africa. Indeed, there are few Members in this Body who can have so convincingly outlined the horrific atrocities which Zimbabwe's President Robert Mugabe has committed against the people of Zimbabwe.

The Zimbabwe Democracy and Economic Recovery Act of 2001 sets up a Presidential certification process for Zimbabwe which is contingent upon the following: restoration of the rule of law; certain electoral and land ownership reforms; fulfillment of agreement ending war in the Democratic Republic of Congo; and military and national police subordination to the civilian government in Zimbabwe. Until this Presidential certification is made, and except as may be required to meet basic human needs or for good governance, this legislation would require the Secretary of the Treasury to instruct the United States Executive Director to each international financial institution (IFI) to oppose and vote against both of the following: (1) any extension by the respective institution of any loan, credit, or guarantee to the Government of Zimbabwe; or (2) any cancellation or reduction of indebtedness owed by the Government of Zimbabwe to the United States or any international financial institution. This Member is pleased that it is currently the Administration's policy for U.S. representatives to the IFIs to oppose and vote against loans and debt restructuring for Zimbabwe.

It is important to note that, in September 1999, the International Monetary Fund suspended its ''Stand By Arrangement,'' which had been approved the prior month, for economic adjustment and reform in Zimbabwe. In addition, the International Development Association, which is the concessional window of the World Bank, suspended all structural adjustment loans, credits, and guarantee to the Government of Zimbabwe in October of 1999.

Furthermore, during the International Relations Committee's consideration of S. 494, this Member offered an amendment which struck from the legislation a provision which would have created a Southern Africa Finance Center to be located in Zimbabwe. The center was to have included regional offices for the Overseas Private Investment Corporation (OPIC), the Export-Import Bank (Ex-Im), and the Trade and Development Agency (TDA).

While it is important for the U.S. to offer incentives to Zimbabwe to encourage political and economic reform, it is critical that those carrots be appropriate for the conditions. Even with significant changes in Zimbabwe's political climate, the country simply will not have the infrastructure in the near future to support such a center for the entire region. Additionally, this center would be a completely new endeavor for two of the U.S. agencies—namely OPIC and the Ex-Im Bank—neither of which currently have offices outside of the U.S.

However, that is not to say that the agencies cannot or should not play a critical role in stabilizing the region's economic health. Indeed, this Member would like to commend the Ex-Im Bank for developing a Sub-Saharan Africa Advisory Committee which has facilitated a dramatic increase in Ex-Im's investment in Africa. As the Chairman of the House Financial Services Subcommittee on International Monetary Policy and Trade, this Member introduced H.R. 2871, the Export-Import Bank Reauthorization Act of 2001, which, among other things, would reauthorize this Sub-Saharan Africa Advisory Committee for four years until FY2005. This legislation, which passed the House Financial Services Committee on October 31, 2001, would also create an Office on Africa to further enhance the Ex-Im Bank's emphasis on Africa.

Additionally, this Member is very pleased that in lieu of the Southern Africa Finance Center originally included in S. 494, the Bush administration has announced the creation of an Africa Regional Trade and Development Office which will be located in Johannesburg, South Africa, and will serve all of Sub-Saharan Africa. This announcement was made after the Senate considered and passed S. 494.

Through this office, the TDA, which will serve as the lead agency at the center, can more closely coordinate its trade development and promotion activities in the region with local governments and with U.S. representatives already on the ground. Perhaps some day Zimbabwe might serve as an appropriate location for a branch office of the Africa Regional Trade and Development Office. Until then, the Administration's proposal appears to be the most viable option to provide Sub-Saharan Africa with the access to economic development and trade promotion tools which the region desperately needs to build economic stability.

Mr. Speaker, this Member encourages his colleagues to vote for S. 494.

Mr. RANGEL. Mr. Speaker, I rise today in support of important legislation, S. 494, the Zimbabwe Democracy and Recovery Act. First and foremost, I want to thank Mr. ROYCE and Mr. PAYNE, for bringing this important piece of legislation to the floor. Unlike previous bills that sought to penalize the people of Zimbabwe, this bill offers incentives to help guide their nation on a path of political and economic reform with United States assistance.

I have watched the Zimbabwe crisis unfold over the past several years and am deeply concerned about the increasing repression and violence which has created deepening concern over the manner in which the upcoming elections will be conducted. Our hope in the Congress is that Zimbabwe will become a model for other democracies around the world by ensuring that the upcoming elections are executed in a free and fair manner which assures full participation by all its citizens and manifests the will of the people.

The challenges that the nation of Zimbabwe faces are great. Zimbabwe is plagued with a horrific economic crisis that is characterized by extreme poverty, food shortages, and widespread loss of jobs and negative economic growth. These problems must be seriously addressed and dealt with in this nation's recovery efforts, but they cannot be unless political stability is achieved.

It is of the utmost importance that stability and economic viability are restored to the people of Zimbabwe. I believe that this bill, the Zimbabwe Democracy and Recovery Act of 2001, is the first step in achieving this end goal. Through the passage of this bill, not only will Zimbabwe benefit, but the entire southern region of Africa that has been impacted by this crisis will also stand to benefit from the passage of this legislation.

The Zimbabwe Democracy and Recovery Act of 2001 provides that when imperative political conditions are met, such as, restoring the rule of law, conducting fair political elections, and providing for equitable and legal land reform, that the U.S. will initiate an economic recovery policy. It also provides financial incentives, which include bilateral debt relief and U.S. support for similar action with the International Financial Institutions.

This bill offers an opportunity for the U.S. and Zimbabwe to re-engage on the road to democracy and economic recovery. It recognizes the need for land reform and for the first time provides tangible U.S. support for its achievement. It authorizes $20m for land reform efforts and $6m for democracy and governance.

This piece of legislation is very important to the friends of Africa who are dedicated to stopping civil conflict which impedes development and who continue to work on increasing trade opportunities and promoting economic growth for African nations.

I stand today in support of this bill and urge all of my colleagues to also show their support for a democratic and prosperous future in Zimbabwe and the southern region of Africa.

Mr. GILMAN. Mr. Speaker, I rise to voice my support for S. 494, which declares that it is U.S. policy to support the Zimbabwean people in their struggles to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and to restore the rule of law to that troubled country. Furthermore, I

fully support the bill's authorization of additional funding to non-governmental organizations working with the people of Zimbabwe to promote good governance and the rule of law.

Today, Zimbabwe continues to face difficult social, economic and political problems. The goal of U.S. policy toward Zimbabwe must be to assist its development into a stable, free-market democracy, both as a goal in itself and as a bulwark against regional instability and conflict. However, this cannot be achieved until the government of Zimbabwe undertakes comprehensive reforms to enfranchise its people politically and economically.

The essential foundations of freedom and democracy are free and fair elections, a free and open press, and the development of democratic institutions based on the rule of law. However, all evidence points to the conclusion that these institutions do not currently exist in Zimbabwe, and that respect for the rule of law is seriously lacking. I regret that a sense of Congress is necessary to express our view that sanctions must be necessary to bring about the necessary reforms and democracy to Zimbabwe. Let me be clear: our goal is not to harm the people of Zimbabwe but rather to send a clear signal to its government that an expeditious transition to democracy is imperative. The people of Zimbabwe have waited much too long and endured far too many hardships, and clearly deserve better.

I also want to voice my concern with regards to Libya's attempts to establish military ties with the government of Zimbabwe. I hope that the Zimbabwe government sees its future in an alignment with Western democracies and not with state-sponsors of terrorism such as Libya.

We truly hope the government of Zimbabwe takes advantage of the opportunities presented by this legislation, and will seek to build better relations with the United States. Should the government of Zimbabwe choose to improve its democratic record, and establish good governance and the rule of law, its success will serve as a model for other countries in the region.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this legislation, which renews our commitment to the stabilization of the Zimbabwean democracy and reaffirms our commitment to the establishment of democratic principles throughout the African subcontinent.

This legislation sends a strong message to the rest of the world regarding our intentions toward Zimbabwe with its opening language: "It is the policy of the United States to support the people of Zimbabwe in their struggle to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law."

The need for such a forthright statement from this nation has been pressing for some time. International news agencies have chronicled the decent into political anarchy within Zimbabwe over the last year, as armed bands of "veterans" attacked homesteads and other economic and farming interests with the support of the Mugabe regime. These interests claim an unfair distribution of resources in the nation, and highlight the need for positive action by the United States.

Mr. Speaker, Zimbabwe is a nation of many needs. HIV/AIDS is ravaging the population at a rate of 25%, and the current average life expectancy of her citizens is only 37 years. The nation had a protracted role in the war in the Democratic Republic of Congo, and this action and other budgetary mismanagement issues have resulted in Zimbabwe being ineligible for IMF and International Bank for Reconstruction and Development programs, further stressing the people of this nation.

Mr. Speaker, this legislation allows the U.S. to acknowledge both the dire economic and social needs of the Zimbabweans while seeking a positive resolution of the political crisis that animates this struggle. This legislation directs the U.S. government to restructure or forgive loans contributing to the sovereign debt of Zimbabwe by any agency of the U.S. government. This act also creates a Southern Africa Finance Center to be located within Zimbabwe that will coordinate the regional offices of OPIC, Eximbank, and TDA in order to help with the economic stabilization of Zimbabwe.

Thus, Mr. Speaker, Congress has provided good incentives for the political leaders in Zimbabwe to work towards reestablishing the rule of law for their people. These benefits will only accrue to Zimbabwe if the President certifies that the rule of law and respect for ownership, property, and freedom of speech has been restored; that the next Zimbabwean election is a free and fair contest; that transparent land reform procedures are enacted; that Zimbabwe contributes a good faith effort to the Lusaka Accords ending the war in the Democratic Republic of Congo; and that the military and national police in the nation are "responsible to and serve the elected civilian government. These requirements can be waived, however, if the President deems it in the national interest to do so.

Fulfillment of these requirements will be a hard task, and thus this legislation includes monies for the land reform and democracy and governance programs in Zimbabwe.

Mr. Speaker, in these times of global uncertainty, the ever present goal of the U.S. is the widespread development of democratic principle that place the benefits of good governance in the hands of citizens and not politicians. This legislation demonstrates to the rest of the world that we stand for the principles of freedom and democracy above all.

Mr. ROYCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and pass the Senate bill, S. 494, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2299) "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.".

KNOW YOUR CALLER ACT OF 2001

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 90) to amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes, as amended.

The Clerk read as follows:

H.R. 90

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 "Know Your Caller Act of 2001".

SEC. 2. PROHIBITION OF INTERFERENCE WITH CALLER IDENTIFICATION SERVICES.

Section 227 of the Communications Act of 1934 (47 U.S.C. 227) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) PROHIBITION ON INTERFERENCE WITH CALLER IDENTIFICATION SERVICES.—

"(1) IN GENERAL.—It shall be unlawful for any person within the United States, in making any telephone solicitation—

"(A) to interfere with or circumvent the capability of a caller identification service to access or provide to the recipient of the telephone call involved in the solicitation any information regarding the call that such service is capable of providing; and

"(B) to fail to provide caller identification information in a manner that is accessible by a caller identification service, if such person has capability to provide such information in such a manner.

For purposes of this section, the use of a telecommunications service or equipment that is incapable of transmitting caller identification information shall not, of itself, constitute interference with or circumvention of the capability of a caller identification service to access or provide such information.

"(2) REGULATIONS.—Not later than 6 months after the enactment of the Know Your Caller Act of 2001, the Commission shall prescribe regulations to implement this subsection, which shall—

"(A) specify that the information regarding a call that the prohibition under paragraph (1) applies to includes—

"(i) the name of the person or entity who makes the telephone call involved in the solicitation;

''(ii) the name of the person or entity on whose behalf the solicitation is made; and

''(iii) a valid and working telephone number at which the person or entity on whose behalf the telephone solicitation is made may be reached during regular business hours for the purpose of requesting that the recipient of the solicitation be placed on the do-not-call list required under section 64.1200 of the Commission's regulations (47 CFR 64.1200) to be maintained by such person or entity; and

''(B) provide that a person or entity may not use such a do-not-call list for any purpose (including transfer or sale to any other person or entity for marketing use) other than enforcement of such list.

''(3) PRIVATE RIGHT OF ACTION.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

''(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation;

''(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater; or

''(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

''(4) DEFINITIONS.—For purposes of this subsection:

''(A) CALLER IDENTIFICATION SERVICE.—The term 'caller identification service' means any service or device designed to provide the user of the service or device with the telephone number of an incoming telephone call.

''(B) TELEPHONE CALL.—The term 'telephone call' means any telephone call or other transmission which is made to or received at a telephone number of any type of telephone service and includes telephone calls made using the Internet (irrespective of the type of customer premises equipment used in connection with such services). Such term also includes calls made by an automatic telephone dialing system, an integrated services digital network, and a commercial mobile radio source.''.

SEC. 3. EFFECT ON STATE LAW AND STATE ACTIONS.

(a) EFFECT ON STATE LAW.—Subsection (f)(1) of section 227 of the Communications Act of 1934 (47 U.S.C. 227(f)(1)), as so redesignated by section 2(1) of this Act, is further amended by inserting after ''subsection (d)'' the following: ''and the prohibition under paragraphs (1) and (2) of subsection (e),''.

(b) ACTIONS BY STATES.—The first sentence of subsection (g)(1) of section 227 of the Communications Act of 1934 (47 U.S.C. 227(g)(1)), as so redesignated by section 2(1) of this Act, is further amended by striking ''telephone calls'' and inserting ''telephone solicitations, telephone calls,''.

SEC. 4. STUDY REGARDING TRANSMISSION OF CALLER IDENTIFICATION INFORMATION.

The Federal Communications Commission shall conduct a study to determine—

(1) the extent of the capability of the public switched network to transmit the information that can be accessed by caller identification services;

(2) the types of telecommunications equipment being used in the telemarketing industry, the extent of such use, and the capabilities of such types of equipment to transmit the information that can be accessed by caller identification services; and

(3) the changes to the public switched network and to the types of telecommunications equipment commonly being used in the telemarketing industry that would be necessary to provide for the public switched network to be able to transmit caller identification information on all telephone calls, and the costs (including costs to the telemarketing industry) to implement such changes.

The Commission shall complete the study and submit a report to the Congress on the results of the study, not later than one year after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Texas (Mr. GREEN) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on this legislation.

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

There was no objection.

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

Mr. Speaker, H.R. 90, the Know Your Caller Act, by my good friend the gentleman from New Jersey (Mr. FRELINGHUYSEN), deals with the controversial business practice of telemarketing.

There are thousands of reputable telemarketing companies and they provide a benefit to the public by offering a broad range of consumer products and business opportunities. These companies employ hundreds of thousands of citizens across this country and they fuel this economy with literally billions of dollars.

Increasingly, however, telemarketers are the cause of complaints. Consumers are concerned that telemarketers are intruding into their homes, and we continue to hear stories about telemarketing schemes that separate consumers from their hard-earned money.

In fact, telemarketing complaints lodged with the Federal Trade Commission seem to support these consumer concerns. In 1997, for example, there were 2,260 complaints. In 2000, there were 36,804 complaints, a significant increase.

H.R. 90 takes these consumer complaints seriously. With the excellent work of the author, the gentleman from New Jersey (Mr. FRELINGHUYSEN), we can remove the cloak of secrecy that fraudulent telemarketers use to swindle their victims. No longer will telemarketers be able to hide behind the anonymous telephone call.

H.R. 90 prohibits telemarketers from blocking the transmission of caller ID information. In addition, this bill requires telemarketers to send caller ID information if their equipment is capable to do so. What this means is that the flashing signals on caller ID boxes, ''caller unknown,'' or ''out of area'' will no longer protect the scam artist.

The transmission of caller identification information is so important to consumers, not only for safety and privacy reasons, but also because it provides the consumer with a telephone number that can be used to place the consumer on what is known as a telemarketer's ''do-not-call'' list. You see, if you know who is calling you and you do not want them to call him again, under the law, you can put a call in and say do not call me anymore; I do not want to be bothered anymore. By being placed on a do-not-call list, the telemarketer is prohibited from calling back for the next 10 years. That will protect you for a while.

Additionally, the bill takes steps to prevent the sale of do-not-call lists, which is currently allowed under the law.

I have worked with the gentleman from Michigan (Mr. DINGELL) on bipartisan amendment efforts to clarify this point. To remedy this loophole, H.R. 90 prohibits telemarketers from selling, leasing or receiving anything of value for these do-not-call lists. Few things are more offensive than being asked to be placed on a do-not-call list, only to have your name sold to another direct mail company.

This amendment respects and protects the privacy requests of the consumer and should prevent an increase in unwanted telephone solicitations.

I believe this bill strikes a good balance between the consumers' right to privacy and safety and the telemarketers' legitimate business interests. It protects consumers as well as the very thriving commercial industry and, indeed, protects the good players from the bad consequences of bad actors.

I support this bill and urge support from the House as well.

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

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

Mr. Speaker, I want to begin by complimenting the gentleman from New Jersey (Mr. FRELINGHUYSEN), the sponsor of H.R. 90, who did excellent work here in crafting this legislation.

Consumers who want to exercise their right to be placed on a do-not-call list, or to take a telemarketer to small claims court after being called, are often frustrated when they cannot get the caller ID information from the telemarketer to identify them.

This legislation prohibits telemarketers from interfering with or circumventing the capability of caller ID services. Telemarketers who solicit the

public in their homes for commercial gains should not be permitted to evade the purpose and function of caller ID services. This bill will prevent the telemarketers from doing so, while further empowering consumers to control the communications going to and from their home.

Mr. Speaker, the bottom line is the telecommunications revolution gives enormous opportunities for telemarketers, but it also gives opportunities for consumer power. These powers should include the ability, by using caller ID, to prevent information from going to their family which they deem and believe is inappropriate.

I think this information strikes a good balance between the rights of consumers to protect their privacy and the rights of telemarketers to practice their trade. This bill allows consumers to use the best available technology to protect their privacy but does not allow telemarketers to start a de facto race to outsmart this technology.

I congratulate the gentleman from New Jersey (Mr. FRELINGHUYSEN).

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

□ 1530

Mr. TAUZIN. Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from New Jersey (Mr. FRELINGHUYSEN), the author of the legislation.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) for yielding me the time, and I want to commend him and the gentleman from Michigan (Mr. DINGELL), the ranking member, and all Members for their assistance in getting this bill to the floor, particularly the gentleman from Louisiana (Mr. TAUZIN), who has been very helpful. He has been very supportive, and he has been personally very interested in this bill. H.R. 90 would not be here without his support and the way that he has helped me along the way.

Mr. Speaker, the Know Your Caller Act will provide a simple but important consumer protection. Many consumers purchase and pay for caller ID service and caller ID equipment for several reasons: In the first instance, to protect their privacy; secondly, they provide for their personal security by identifying incoming calls and allow them the opportunity to decide before picking up the receiver, whether or not to answer the call.

Guess what, some of the most frequent calls, those from telemarketers, not all telemarketers but many, appear with a message Out of the Area or Caller Unknown. Mr. Speaker, telemarketing is a commercial enterprise. As such, what would be the reason for not disclosing a business telephone number? There simply is no reason.

I believe that all commercial enterprises that use the telephone to advertise or sell their services to encourage the purchase of property or goods or for any other good commercial purposes should be required to have the name of their business and their business telephone number disclosed on caller ID boxes. Some telemarketing enterprises purposely block out caller ID devices; yet these same companies know a person's name, address, and telephone number. Is it not only fair that they share their company name and their telephone number so a person can make sure that they are a legitimate company, that they are who they say they are?

Also, if my colleagues are like me and politely ask to have their name removed from their list, I think we should also be able to track the name and number of these telemarketing callers to ensure that they do not call back again. My legislation will simply require any person making a telephone solicitation to clearly identify themselves on these devices.

Mr. Speaker, this legislation will help separate legitimate telemarketers from fraudulent ones. While the majority of telemarketers are legitimate business people attempting to sell a product or service, there are some unscrupulous individuals and companies violating existing telemarketing rules and scamming many customers.

Consumers pay a monthly service fee to subscribe to the caller ID service because they want to protect their personal privacy and their pocketbooks, but they have little recourse to protest intrusions on their privacy because most telemarketers intentionally block their identity from being transmitted to caller ID devices.

Mr. Speaker, we already require telemarketers to identify themselves over the telephone and via telephone fax transmission. This bill simply extends the protection to consumers with caller ID devices.

Mr. Speaker, I express my thanks for this opportunity. This bill passed unanimously in the last session; and again, I thank the gentleman from Louisiana (Mr. TAUZIN) for his support of it.

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

I say in closing that this is a good bill. I especially appreciate the ability of individuals and the private cause of action that is in the legislation.

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

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

Again, I want to thank the gentleman from New Jersey (Mr. FRELINGHUYSEN) for his absolute perseverance in seeing to it that this bill is passed again this year. Hopefully, it will become law and consumers will be much better off for it and he will be a hero. A lot of Americans have been troubled by this, and I commend this bill to the House.

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

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 90, as amended.

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

A motion to reconsider was laid on the table.

RECOGNIZING IMPORTANT CONTRIBUTIONS OF HISPANIC CHAMBER OF COMMERCE

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 277) recognizing the important contributions of the Hispanic Chamber of Commerce.

The Clerk read as follows:

H. CON. RES. 277

Whereas the Hispanic Chamber of Commerce of the United States has had a significant impact among Hispanic businesses, and in the business community in general;

Whereas the Hispanic Chamber of Commerce has served in a key support role, not merely as a business group but also as a civic organization working in the Hispanic-American community; and

Whereas the Hispanic Chamber of Commerce has helped to bring entrepreneurship to the Hispanic community as well as helping to pool the resources and talents of Hispanic American entrepreneurs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that it is important to the promotion of the free market process of the United States, to the future success of Hispanic Americans, and to society at large that the special role of the Hispanic Chamber of Commerce of the United States be recognized and further cultivated to the benefit of all Americans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from New York (Mr. TOWNS) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 277.

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

There was no objection.

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

Mr. Speaker, I rise today in support of House Concurrent Resolution 277, recognizing the important contributions of the United States Hispanic Chamber of Commerce.

The Hispanic community is booming in this country. In fact, it has become the fastest-growing segment of our Nation's population; and by the year 2010, Hispanics will become the largest minority group in the United States and by 2050 will comprise nearly 25 percent of the entire U.S. population.

One sector within the Hispanic community that has been experiencing especially rapid growth over the past few years is the small business community. At present, it is estimated that there are over 1.5 million Hispanic-owned small businesses in the country.

Created in 1979 by a handful of dedicated Hispanic leaders, the U.S. Hispanic Chamber of Commerce has helped to realize the enormous potential of the Hispanic business community in these United States, and the U.S. Hispanic Chamber of Commerce has worked tirelessly to bring the issues of the Nation's Hispanic-owned businesses to the national economic agenda and drives the engine of economic growth.

Today, we thank them for increasing their contribution to the strength of this country.

It is a good resolution. My mother, Ms. Enola Martinez Tauzin, appreciates it personally; and I urge the House to adopt it.

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

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

I rise in strong support of this resolution, H. Con. Res. 277, which recognizes the important contributions of the Hispanic Chamber of Commerce. The chamber's mission, to actively promote the economic growth and development of Hispanic entrepreneurs, is important to the free market process and the success of Hispanic Americans. Especially during these times of economic hardship, I fully expect that the Hispanic business community will be an engine for growth and recovery benefiting our whole economy.

In the 5-year period from 1992 to 1997, Hispanic businesses across the Nation grew about 82 percent. The programs, services and support that the chamber continues to offer the more than 200 local chambers across this Nation have been integral to the success and vitality of these Hispanic businesses.

I have seen the effects of the chamber's initiatives in my own 10th Congressional District in Brooklyn. The Hispanic community has produced some of the most exciting entrepreneurial initiatives, enriching Brooklyn for all of its residents. From small stores and bodegas to supermarkets like Compare Market and ABC Beverages to large construction companies like Park Avenue Building and Roofing Supplies, Hispanic-owned businesses employ hundreds of residents as well as adding to the economic viability of our neighborhoods.

Since its formation in 1979, the Hispanic Chamber of Commerce has represented the interests of more than 1.2 million Hispanic-owned businesses in the United States and Puerto Rico. In addition to its annual convention featuring hundreds of domestic and international exhibitors, the chamber also supports Hispanic businesses with legislative and governmental affairs services, business development and marketing services, and active promotion of international trade by networking with Latin American governments.

Through its Empowerment Through Entrepreneurship Initiative, the chamber has also established a $20 million venture capital fund and, in partnership with the Ford Motor Company, has formed a bilingual National Director of Hispanic Businesses. It has also sewn the seeds of entrepreneurship by sponsoring programs for Hispanic youth such as Bizfest and funding Hispanic scholarship programs.

The chamber's contributions to the Hispanic business community have and will continue to enrich all of our lives. I urge my colleagues to join me in giving the Hispanic Chamber of Commerce the recognition that it deserves.

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

Mr. HINOJOSA. Mr. Speaker, I rise in support of House Concurrent Resolution 277. I am very pleased to see that we are recognizing the important contributions of the Hispanic Chamber of Commerce. As a former businessman from the lower Rio Grande Valley in south Texas, I can personally attest to the invaluable assistance that the Hispanic Chamber of Commerce provides for the Hispanic business community.

The rapid growth of the Latino population has made our community a more crucial part of the American economy than ever before. The Hispanic Chamber of Commerce has provided the vision and the leadership to promote a spirit of entrepreneurship and an ethic of competitiveness in the Hispanic business community. It has also served as an effective advocate by communicating the community's concerns in the greater business and political arena.

I want to thank the Hispanic Chamber for all of the hard work it has put into achieving economic progress for our community, and I urge my colleagues to join me in supporting this resolution. In south Texas, we are members of the Texas Association of Hispanic Chambers of Commerce, and we have had lots of meetings and we have had lots of successful gatherings, and so that is why I am here to show our support for this group.

Mrs. WILSON. Mr. Speaker, I rise today in support of H. Con. Res. 277, recognizing the important contributions of the Hispanic Chamber of Commerce.

From top-level corporate positions, to Mom and Pop corner stores, Hispanics in America make tremendous contributions to the nation. Minority owned businesses are growing and creating jobs faster than other companies.

In 1979, realizing the enormous potential of the Hispanic business community in the United States and the need for a national organization to represent its interests, the United States Hispanic Chamber of Commerce (USHCC) was incorporated in my home state of New Mexico, creating a structured organization aimed at developing a business network that would provide the Hispanic community with cohesion and strength. Since its inception, the USHCC has worked towards bringing the issues and concerns of the nation's more than 1.2 million Hispanic-owned businesses to the forefront.

Throughout the years, the Albuquerque Hispano Chamber of Commerce has improved the quality of life in the Middle Rio Grande corridor by promoting economic and education activities, with an emphasis on small business.

This has also been a great year for the Albuquerque Hispano Chamber of Commerce. The Chamber officially opened the doors to their Barelas Job Opportunity Center. This center houses a state-of-the-art technology lab and will focus on work force development and entrepreneur opportunities. The facility is also home to the U.S. Small Business Administration Business Information Center and the Senior Corp of Retired Executives. This Center is a hub for consultations on how to grow a business, start a business, manage a business or capitalize a business.

Over the past 26 years the Albuquerque Hispano Chamber of Commerce has experienced change and growth that would rival any successful business. I am grateful to the Albuquerque Hispano Chamber of Commerce for helping to make Albuquerque a better place and improving the quality of life in New Mexico.

Mr. PAUL. Mr. Speaker, I want today to address my resolution, H. Con. Res. 277 to recognize the important contributions of the Hispanic Chamber of Commerce. Mr. Speaker, the United States Hispanic Chamber of Commerce was founded in New Mexico in 1979. Headquartered in Washington, DC the Hispanic Chamber of Commerce currently has a network of more than 200 chapters in the United States and its territories. One of those active chapters is in my district, in fact the San Marcos Hispanic Chamber of Commerce just held its successful Turkey Trot Golf Tournament during our Thanksgiving break.

The importance of this national organization cannot be overstated, Hispanics have an annual purchasing power of approximately $500 billion and the Chamber effectively represents the more than 1 million Hispanic-owned businesses. The organization's recent growth has shown its influence in communities not traditionally considered centers for Latino development, locations such as Richmond, Virginia; Charlotte, North Carolina and Minnesota's Twin Cities area.

The Hispanic Chamber of Commerce provides important recognition to its members and supporters through an annual awards program. Moreover, the organization furnishes its membership with a host of critical services, ably guided by the leadership of its President and CEO George Herrera, Chair Ms. Elizabeth Lisboa-Farrow, who also chairs the DC Chamber of Commerce; and Vice Chairman J.R.

Gonzales, President of a communications firm in Austin, Texas.

Importantly, the Chamber has maintained international trade as one of its top long term priorities, even maintaining an office in Mexico City. The Hispanic Chamber of Commerce provides and promotes the kind of private sector trade initiatives and assistance that I believe all of us can support.

Mr. Speaker, I am gratified to be able to bring to the Floor today this resolution to recognize the important contributions of the United States Hispanic Chamber of Commerce and ask for the support of members in passing this item.

Mr. TOWNS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 277.

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

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS REGARDING TUBEROUS SCLEROSIS

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 25) expressing the sense of the Congress regarding tuberous sclerosis, as amended.

The Clerk read as follows:

H. CON. RES. 25

Whereas at least two children born each day will be affected with tuberous sclerosis;

Whereas nearly one million people worldwide are known to have tuberous sclerosis;

Whereas tuberous sclerosis affects all races and ethnic groups equally;

Whereas tuberous sclerosis is caused by either an inherited autosomal disorder or by a spontaneous genetic mutation;

Whereas when tuberous sclerosis is genetically transmitted as an autosomal dominant disorder, a child with a parent with the gene will have a 50-percent chance of inheriting the disease;

Whereas two-thirds of the cases of tuberous sclerosis are believed to be a result of spontaneous mutation, although the cause of such mutations is a mystery;

Whereas diagnosis takes an average of 90 days with consultation of at least three specialists;

Whereas tuberous sclerosis frequently goes undiagnosed because of the obscurity of the disease and the mild form the symptoms may take; and

Whereas the Congress as an institution, and Members of Congress as individuals, are in unique positions to help raise public awareness about the need for increased funding for research, detection, and treatment of tuberous sclerosis and to support the fight against tuberous sclerosis: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) all Americans should take an active role in the fight against tuberous sclerosis by all means available to them, including early and complete clinical testing and investigating family histories;

(2) the role played by national and community organizations and health care providers in promoting awareness of the importance of early diagnosis, testing, and ongoing screening should be recognized and applauded;

(3) the Federal Government has a responsibility to—

(A) endeavor to raise awareness about the importance of the early detection of, and proper treatment for, tuberous sclerosis;

(B) increase funding for research so that the causes of, and improved treatment for, tuberous sclerosis may be discovered; and

(C) continue to consider ways to improve access to, and the quality of, health care services for detecting and treating tuberous sclerosis; and

(4) the Director of the National Institutes of Health should take a leadership role in the fight against tuberous sclerosis by acting with appropriate offices within the National Institutes of Health to provide to the Congress a five-year research plan for tuberous sclerosis.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 25.

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

There was no objection.

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

I rise today to support this concurrent resolution increasing awareness of tuberous sclerosis and supporting programs for greater research.

Though few Americans have ever heard of tuberous sclerosis, it is a disease that affects 50,000 here at home and nearly 1 million people worldwide. It is a genetic disorder that causes seizures and tumor growth in vital organs such as the brain, heart, kidneys, lungs, and skin. Though these tumors are benign, they often compromise the proper functioning of essential organs. For example, many of those afflicted have some type of learning disability or behavioral problem caused by the combination of the brain tumors and seizures.

Individuals with tuberous sclerosis and their families face significant financial, emotional and social hardships. More than 60 percent of those living with the disease will never live independently. This means a dramatically reduced quality of life for both those afflicted and their families.

We can make a difference by raising awareness about the importance of early detection and proper treatment for tuberous sclerosis. The resources of the Federal Government's health and resource institutes can help advance the understanding of the biological factors causing this disease. Working in partnership with other research initiatives, we can help reduce the long-term impact of this problem.

H. Con. Res. 25 takes an important step in the fight against tuberous sclerosis, and I urge my colleagues to support it.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself as much time as I may consume.

I would like to thank the gentlewoman from New York (Mrs. KELLY) for her dedication to the issue of tuberous sclerosis. H. Con. Res. 25 expresses our support in the fight against tuberous sclerosis, a rare genetic disorder that affects the central nervous system.

Tuberous sclerosis affects one in 6,000 babies in our country and does not discriminate by race or by gender. At least two babies born today will be touched in this country by this disorder. It can cause kidney problems, brain tumors, skin abnormalities, seizures, and various degrees of mental disability. Tuberous sclerosis is frequently unrecognized and frequently misdiagnosed.

There is no cure for this disease, yet. The NINDS, one of the institutes of health, is studying this disorder, trying to find new treatments, trying to find new methods of prevention, and trying ultimately, of course, to find a cure.

Congress must continue to improve access to quality health care services for detecting and treating tuberous sclerosis.

This resolution encourages the director of NIH to take a leadership role in the fight to eradicate tuberous sclerosis.

□ 1545

As Members of Ohio are in unique positions to raise awareness about disorders that simply do not garner the attention that they deserve, the bill of the gentlewoman from New York (Mrs. KELLY) will help bring focus to the fight against tuberous sclerosis. I urge Congress to pass this resolution.

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

Mr. BILIRAKIS. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Mrs. KELLY), who we are all indebted to for bringing the issue of tuberous sclerosis to our attention.

Mrs. KELLY. Mr. Speaker, I rise today in strong support of the concurrent resolution, H. Con. Res. 25, expressing the sense of Congress regarding tuberous sclerosis. I commend the gentleman from Louisiana (Mr. TAUZIN), the distinguished chairman of the Committee on Commerce, and the chairman of the Subcommittee on

Health, the gentleman from Florida (Mr. BILIRAKIS), for acting so quickly to report this important legislation.

H. Con. Res. 25 represents the opportunity Congress has to educate Americans about the little known genetic disease tuberous sclerosis. It is estimated that at least two children born each day will have tuberous sclerosis. There are approximately 1 million people worldwide who are affected. TS is a disorder that can be inherited or result from genetic mutation. The disease is characterized by seizures and tumors which form in vital organs such as brain, heart, skin, kidneys and lungs. Though not malignant, these tumors can cause debilitating and sometimes life-threatening problems.

Diagnosis of TS is very difficult, and all too often it goes undetected or is misdiagnosed because its symptoms are similar to those of more common conditions like epilepsy or autism. It is often first recognized following a series of epileptic seizures or varying degrees of developmental delay. An average TS diagnosis takes 90 days and involves up to three specialists and numerous tests.

Preliminary research has found specific genes associated with tuberous sclerosis, but to date there is no widely used genetic test, leaving diagnosis to be based on clinical findings. Increased awareness of TS among health care providers and the general population is the key to early diagnosis.

As is the case with many diseases, early detection often determines TS patients' successes in managing the disease. With the variety of treatments currently available to ease symptoms and improve the quality of life for people with tuberous sclerosis, funding to promote awareness in the medical community as well as research to increase early diagnosis really are imperative.

For instance, early intervention has the potential to reduce developmental delay experienced by young patients. Likewise, surgery to remove tumors can help preserve organ function. TS is a permanent medical condition, and those affected and their families must cope with the illness for their entire lives. In some cases, TS does not preclude those who have it from living a relatively normal life. However, in most cases, it is much more intrusive. In addition to the difficulty of diagnosis, there are other post-diagnostic issues with which families must contend, such as obtaining adequate health insurance and, later in life, arranging for independent living solutions.

H. Con. Res. 25 highlights the severity of tuberous sclerosis and affirms the Federal Government's responsibility to facilitate research in this area. We must build on the foundation of knowledge of tuberous sclerosis that has already been built, largely through the organization and resources of friends and families of TS patients.

This bill instructs the director of the National Institutes of Health to work with the appropriate offices within NIH to bring awareness to this disease and to devise a 5-year plan for outlining research initiatives for TS. Congress must act to foster increased research on tuberous sclerosis. We must use our excellent scientific and medical resources to better understand this very complicated disease.

I urge my colleagues to support this worthwhile and necessary legislation.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the full committee.

Mr. TAUZIN. Mr. Speaker, I thank the chairman for yielding me this time and commend him for moving so expeditiously on this resolution, and also I want to commend the gentlewoman from New York (Mrs. KELLY) for her incredible work in this area and other areas. I understand she is also very similar, in moving a similar resolution on Crohn's Disease.

Yesterday, in the Nation's capital, we had an amazing function of families across America gathering for the Cancer Research Family Awareness Luncheon. Sam Donaldson was here, himself a cancer survivor. The whole idea behind the luncheon was to honor those who have worked tirelessly to make people aware of what early detection can do to cure it.

My mother is a three-time cancer survivor. In each case, because she caught it early, she was cured with operation rather than chemo or radiation, sort of a miracle. It started in 1960 with breast cancer; in 1980, then lung cancer; and, just recently, with uterine cancer.

The fact that we make people aware of these diseases so that their doctors and moms and dads can spot them when we see them and treat them sooner makes immeasurable difference not only in the care and treatment of these diseases, but very often in life itself. Many cancer survivors were there to tell their stories yesterday about how, because someone took the trouble to talk about these diseases on television, on the radio, on the floor of the House today, somebody paid attention, somebody caught it early, and somebody was better off for it.

Yesterday, for example, a young woman who is an anchor of a San Antonio, Texas television station was honored for the work she did. She discovered she had breast cancer. Instead of hiding the fact, she went on the air with it and actually did a documentary of how she went through treatment, and how they operated on the cancer and how she went through the incredible ordeal of the chemotherapy, losing her hair. She even did an anchor one night, bald, just to show that you can get through these things and you can live and you can survive if you are willing to be brave enough to face these diseases head-on and treat them early and deal with them.

Here, in this case, the gentlewoman from New York (Mrs. KELLY) has brought to us a concern of so many families, 50,000 families in America which have someone in their family with tuberous sclerosis. And here is another genetic disease that, if we pay enough attention to it, put a little research money on it, we will find a way to cure it and save an uncounted number of lives not only in America but around the world, and certainly make life much more comfortable and bearable for those who suffer with that disease today.

Again, I want to congratulate my colleague from New York for her fine work, and the chairman of the Subcommittee on Health (Mr. BILIRAKIS), and the ranking member, the gentleman from Ohio (Mr. BROWN), for their excellent cooperation in moving this and similar resolutions forward.

Mr. BEREUTER. Mr. Speaker, as a cosponsor of the concurrent resolution, this Member wishes to add his strong support for H. Con. Res. 25, which expresses the sense of Congress that the Federal Government has a responsibility to raise public awareness of tuberous sclerosis and educate all Americans about the importance of the early detection of, and proper treatment for the disease.

This Member would like to commend the distinguished gentleman from Louisiana [Mr. TAUZIN], the Chairman of the House Committee on Energy and Commerce, and the distinguished gentleman from Michigan [Mr. DINGELL], the ranking member of the House Committee on Energy and Commerce, for bringing this important resolution to the House Floor today. This Member would also like to commend the gentlelady from New York [Mrs. KELLY] for sponsoring H. Con. Res. 25 and for her personal interest in tuberous sclerosis.

Tuberous sclerosis complex (TSC) is a genetic disorder characterized by seizures and tumor growth in vital organs such as the brain, heart, kidneys, lungs and skin. Individuals with tuberous sclerosis commonly begin having seizures during the first year of life, and conventional epilepsy therapies often do not control the seizure activity in infants, children or adults. Seizures, as well as brain tumors, contribute to cognitive impairment. As a result, a majority of those afflicted with tuberous sclerosis experience some form of learning disability or behavioral problem, such as attention deficit hyperactivity disorder, autism or mental retardation.

This Member recently received a letter from his constituents, Mr. and Mrs. Lorenz Niemeyer. The Niemeyer's are the proud grandparents of a 23-month old granddaughter, who was diagnosed with tuberous sclerosis at four weeks of age, having tumors on the brain. The Neimeyer's fear that their granddaughter is severely disabled, both mentally and developmentally.

The toll on the family of a person with tuberous sclerosis is enormous. Care for a tuberous sclerosis patient often requires on-going

treatment that involves multiple medical specialists, speech, occupational and other therapists, as well as those skilled in the proper care and educational and emotional development of a medically and mentally disabled individual.

House Concurrent Resolution 25 expresses the sense of the Congress that the Federal Government has a responsibility to raise public awareness of tuberous sclerosis and educate all Americans about the importance of the early detection of, and proper treatment for, tuberous sclerosis. In addition, the resolution urges an increase in funding for research on tuberous sclerosis. Finally, H. Con. Res. 25 urges the National Institutes of Health to take a leadership role and to provide a five-year research plan in the fight against tuberous sclerosis.

Mr. Speaker, in closing, this Member urges his colleagues to support H. Con. Res. 25.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H. Con. Res. 25, which expresses the sense of Congress regarding tuberous sclerosis. This measure urges increased federal aid for research and calls on the Director of the National Institutes of Health to help develop a five-year research plan for tuberous sclerosis. H. Con. Res. 25 also declares that all Americans should take an active role in the fight against this genetic disorder.

At least two children born each day will be affected with tuberous sclerosis (TS). Nearly one million people worldwide are known to have TS. TS does not discriminate against any race or ethnic group.

According to a report released by the Tuberous Sclerosis Association, preschool children with TS develop intellectual and behavioral problems. The intellectual development varies greatly. Approximately 40% will not have global (affecting all areas of intelligence) intellectual impairments. The remaining may have mile, moderate, or severe mental retardation.

It appears that children under the age of five years with moderate to severe mental retardation will remain mentally retarded to this degree into adulthood.

Problems with behavior are some of the most common difficulties experienced by children with TS. Poor expressive language, poor development of social skills, motor impairments, and hyperactivity or inattention are a few examples.

As this bill prescribes, early intervention is most effective. It has been found that during the first five years of life, developmentally disabled children tend to fall farther and farther behind children their own age who do not have developmental difficulties. These declines in the rate of intellectual development of disabled children and reduce with early intervention.

Mr. Speaker, let us work together to raise awareness of tuberous sclerosis and help children with this disorder to live a normal life. I urge my colleagues to support H. Con. Res. 25.

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

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 25, as amended.

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

A motion to reconsider was laid on the table.

NATIONAL HANSEN'S DISEASE PROGRAMS CENTER

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2441) to amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes.

The Clerk read as follows:

H.R. 2441

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

SECTION 1. DESIGNATION OF NATIONAL HANSEN'S DISEASE PROGRAMS CENTER.

(a) REFERENCES IN PUBLIC HEALTH SERVICE ACT.—Section 320(a)(1) of the Public Health Service Act (42 U.S.C. 247e(a)(1)) is amended by striking ''Gillis W. Long Hansen's Disease Center'' and inserting ''National Hansen's Disease Programs Center''.

(b) PUBLIC LAW 105–78.—References in section 211 of Public Law 105–78, and in deeds, agreements, or other documents under such section, to the Gillis W. Long Hansen's Disease Center shall be deemed to be references to the National Hansen's Disease Programs Center.

(c) OTHER REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Gillis W. Long Hansen's Disease Center shall be deemed to be a reference to the National Hansen's Disease Programs Center.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 2441.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 2441, changing the name of the Gillis W. Long Hansen's Disease Center housing the National Hansen's Disease Program to The National Hansen's Disease Programs Center.

This change is necessary to avoid further confusion in mail delivery between the former location of the NHDP and its current location. Mail is often misdirected, delaying important research and legal documents. Name confusion has also delayed critical patient medical information.

NHDP continues to treat some 6,000 people in the United States with Hansen's disease. Receiving patient medical records is critical to that treatment. I urge my colleagues to support this bill.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

The National Hansen's Disease Programs in Baton Rouge, Louisiana is the only institution in the U.S. exclusively devoted to the complex infectious disease known as Hansen's disease. Hansen's disease can cause nerve damage, resulting in the loss of muscle control and the crippling of the hands and feet.

Fortunately, considerable progress has been made over the last 40 years to treat successfully the majority of Hansen's disease cases. There are roughly 6,500 cases of this disease in the United States.

In the 105th Congress, the National Hansen's Disease Programs, located in the Gillis Long Disease Center in Carville, Louisiana was relocated to Baton Rouge. Although the programs moved from Carville to Baton Rouge, they still bear the name Gillis Long Hansen's Disease Center. Likewise, the Louisiana National Guard in Carville is named the Gillis Long Center.

As a result of these two facilities sharing a name, the National Hansen's Disease Program has suffered from unnecessary postal delays. This bill clears up confusion and reinforces the unique function of the Baton Rouge facility by renaming it the National Hansen's Disease Programs Center.

H.R. 2441 is straightforward legislation. It is located in the State of the chairman of the committee, the gentleman from Louisiana (Mr. TAUZIN), and I urge my colleagues to vote in favor of it.

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

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the chairman of the full committee, the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, again my thanks to the chairman for yielding me this time.

I rise in strong support of H.R. 2441, sponsored by my friend and colleague, the gentleman from the great State of Louisiana (Mr. BAKER).

The National Hansen's Disease Programs has a long history of excellence, beginning with the humane treatment rather than detention of those with leprosy in the late 1800s, the development of the treatment for leprosy in the 1940s, and the current extension of research to tuberculosis and diabetes.

It has been an important part of Louisiana's great history and this Nation's great history. Countless lives were changed in what many called the ''Miracle of Carville.''

In the 105th Congress, we passed a bill transferring ownership of the Gillis W. Long Hansen's Disease Center in Carville, Louisiana from the Department of Health and Human Services to the State of Louisiana and moving it to Baton Rouge. The NHDP has continued its fine work in Baton Rouge instead of Carville, but the Carville facility has retained the name the Gillis W. Long Hansen's Disease Center. As required by law, the new facility in Baton Rouge is also called the Gillis W. Long Hansen's Disease Center.

You can imagine the confusion. The bill simply straightens out the confusion, to make sure the mail goes to the proper party, and changes the name of the NHDP to the National Hansen's Programs Center to eliminate that confusion. It has the support, by the way, of our good friend, former Congresswoman Long, who is Gillis' widow, and a dear friend of ours, and I urge the adoption of this resolution.

Mr. BILIRAKIS. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. BAKER), who is responsible for this legislation.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding me this time and wish to express my appreciation to both gentlemen for their courtesies in facilitating such prompt consideration of this important matter.

For those not familiar with the fine institution in Louisiana, in Carville, known as the Gillis W. Long Hansen's Disease Center, it is in fact a very historic facility which has provided immeasurable service to many people throughout its longstanding history.

It is important that the Congress favorably act on this important name change today, for a very simple but important administrative reason. The National Hansen's Disease Programs have been relocated from the Carville facility to a new institution at the Summit Hospital within Baton Rouge. However, under the current regulatory provisions, that secondary site must also be designated as the Gillis W. Long Center, therein creating problems for the patients of the new Hansen's Disease Programs in Baton Rouge.

Even simple matters such as delivery of mail now is necessitated to go through the Carville Academy site, as opposed to going directly to the National Hansen's Disease Center Programs.

□ 1600

This name change facilitates that. However, it in no way diminishes the importance of the Gillis W. Long Center, where there has been an extraordinary change over the past several years in the scope and direction of that valuable property.

For well over 100 years, it was the target for treatment and research for Hansen's disease. But in an act passed by this Congress a few years ago, ownership of the facility was transferred to the State of Louisiana and a youth at-risk education program has been created there. In this brief time since the program's initiation, the Youth Challenge Program has seen 3,582 students graduate from this new programmatic activity. What is remarkable is the likelihood of these individuals completing their high school education was seriously in question.

After exposure to this fine program, 3,500 students have successfully completed the educational curricula. Twenty-four percent of our graduates have gone on to engage in military service, while another 50 percent have been employed or are in some job training program, while the remaining 20 percent have gone on to higher education pursuits. Some 13 percent have gone on to college.

It is a remarkable program which carries on in the random tradition of Congressman Gillis Long, a tireless servant of the American public, and his spouse, a former Member as well, Cathy Long, who is well aware of this name change.

This programmatic activity is in the highest of American principles. We give nothing away except a chance; and young people from across our great State who are unlikely to be successful in any other endeavor, come here to find renewed hope and opportunity through discipline, education, and job training. It, in fact, is carrying on the mission of the Sisters of Charity who served countless numbers of hopeless social outcasts for many years at the Hansen's Disease Center. They too have signed on to the program at Carville Academy, seeing the hope and vision that this opportunity creates for the innumerable graduates of this fine program.

To both chairmen, I ask that the House do concur in this recommendation.

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 2441.

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

A motion to reconsider was laid on the table.

HONORING MAUREEN REAGAN ON THE OCCASION OF HER DEATH AND EXPRESSING CONDOLENCES TO HER FAMILY

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 60) honoring Maureen Reagan on the occasion of her death and expressing condolences to her family, including her husband Dennis Revell and her daughter Rita Revell, as amended.

The Clerk read as follows:

H.J. RES. 60

Whereas the Congress is greatly saddened by the tragic death of Maureen Reagan on August 8, 2001;

Whereas Maureen Reagan's love of life and countless contributions to family and the Nation serve as an inspiration to millions;

Whereas Maureen Reagan was a remarkable advocate for a number of causes and had many passions, the greatest being her dedication to addressing the scourge of Alzheimer's disease;

Whereas in 1994 when former President Ronald Reagan announced that he had been diagnosed with Alzheimer's disease, Maureen Reagan joined her father and Nancy Reagan in the fight against Alzheimer's disease and became a national spokesperson for the Alzheimer's Association;

Whereas Maureen Reagan served as a tireless advocate to raise public awareness about Alzheimer's disease, support care givers, and substantially increase the Nation's commitment to research on Alzheimer's disease;

Whereas Maureen Reagan helped inspire the Congress to increase Federal research funding for Alzheimer's disease by amounts proportionate to increases in research funding for other major diseases;

Whereas Maureen Reagan went far beyond merely lending her name to the work of the Alzheimer's Association: she was a hands-on activist on the association's board of directors, a masterful fund-raiser, a forceful advocate, and a selfless and constant traveler to anywhere and everywhere Alzheimer's advocates needed help;

Whereas at every stop she made and every event she attended in her efforts to eradicate Alzheimer's disease through research, Maureen Reagan emphasized that researchers are in a ''race against time before Alzheimer's reaches epidemic levels'' with the aging of the Baby Boomers;

Whereas Maureen Reagan stated before the Congress in 2000 that ''14 million Baby Boomers are living with a death sentence of Alzheimer's today'';

Whereas despite her declining health, Maureen Reagan never decreased her efforts in her battle to eliminate Alzheimer's disease;

Whereas during the last six months of her life, from her hospital bed and home, Maureen Reagan urged the Congress to increase funding for Alzheimer's disease research at the National Institutes of Health;

Whereas Maureen Reagan said, ''The best scientific minds have been brought into the race against Alzheimer's, a solid infrastructure is in place, and the path for further investigations is clear. What's missing is the money, especially the Federal investment, to keep up the pace.''; and

Whereas Maureen Reagan's remarkable advocacy for the millions affected and afflicted by Alzheimer's disease will forever serve as an inspiration to continue and ultimately win the battle against the illness: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress, on the occasion of the tragic and untimely death of Maureen Reagan—

(1) recognizes Maureen Reagan as one of the Nation's most beloved and forceful champions for action to cure Alzheimer's disease and treat those suffering from the illness; and

(2) expresses deep and heartfelt condolences to the family of Maureen Reagan, including her husband Dennis Revell and her daughter Rita Revell.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the joint resolution under consideration.

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

There was no objection.

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

Mr. Speaker, today I rise in support of H.J. Res. 60 honoring Maureen Reagan. I would like to thank the gentleman from Massachusetts (Mr. MARKEY) for sponsoring this resolution. Maureen Reagan was once described by one of her critics as one who was ''not schooled in the ways of holding her tongue.'' Thank goodness she was not because we are all better off as a result of her powerful words.

Her desire to contribute to our Nation started at a young age when in 1952 she knocked on doors for Dwight Eisenhower. That early enthusiasm stretched into her adult life. She promoted American businesses abroad in the early 1980s, represented the United States at the U.N. Decade for Women Conference in 1985, and chaired the Republican National Committee as well as the Republican Women's Political Action League.

More than all of this impressive and important work, however, what stands out most as an inspiration to millions of Americans is her tireless dedication to addressing the plague of Alzheimer's disease. The chairman of the Alzheimer's Association board of directors called her the Joan of Arc of Alzheimer's. Anyone whose life has been touched or will be touched by the disease owes her a debt of gratitude. Even at the end of her life she disregarded her own failing health in order to educate people about Alzheimer's and speak in favor of increased funding for research. As Ms. Reagan said, ''We are in a race against time before Alzheimer's reaches epidemic levels.''

Today, 4 million people are living with Alzheimer's; and this number will grow as the baby boomer population ages. Research is essential to a cure for Alzheimer's, and funding is essential to research. The experts are gaining ground, and the course for future science is clear. Before this disease puts an incredible strain on our Nation's public health system, we must take the initiative, Maureen Reagan's initiative, and confront this scourge with a commitment to finding a remedy.

Mr. Speaker, the Secret Service agents who guarded Maureen Reagan in life and who carried her casket at her funeral had given her the code name ''Radiant.'' I believe there is not a more fitting description of her life, her work and her memory. Mr. Speaker, I hope all of my colleagues will join me in supporting H.J. Res. 60 in honoring Maureen Reagan, her work and her courageous spirit.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MARKEY), for his work on this resolution, H.J. Res. 60, recognizing Maureen Reagan as one of the country's most effective advocates on behalf of Alzheimer's disease and expresses the House condolences to her family.

Maureen Reagan is the daughter of former President Ronald Reagan and his first wife, actress Jane Wyman. She died in August of this year after a courageous 5-year battle with malignant melanoma. She was 60 at the time. Since her father's diagnosis of Alzheimer's in 1994, Maureen Reagan was committed to raising awareness about Alzheimer's and the importance of family caregivers.

She was elected a member of the Alzheimer's Association's national board 3 years ago. She testified on numerous occasions before this Congress and State legislatures in support of more funding for Alzheimer's research and caregivers' support.

A year ago she received the Alzheimer's Association Distinguished Service Award for outstanding service to the national board and for helping to advance the mission of this organization. She was also active in raising awareness about melanoma, the deadliest form of skin cancer. In 1998, she received the president's Gold Triangle Award from the American Academy of Dermatology for her work in raising awareness of melanoma and for promoting the importance of skin examination. For that we recognize her.

Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank my colleagues for helping to make this resolution possible. The gentleman from New Jersey (Mr. SMITH) and I introduced this resolution as a way of honoring this great woman. She died on August 8. She passed away after having waged a courageous 5-year battle with cancer. With her passing, this country has lost a true leader in the fight against Alzheimer's disease. She was an extraordinary woman, a talented spokesperson, a tireless advocate.

As a member of the Alzheimer's Association's national board of directors, she worked with Members of Congress to increase funding for Alzheimer's research. She provided compelling testimony before Congress warning that Alzheimer's was on the road to becoming the epidemic of the 21st century unless science could find a way to prevent millions of baby boomers from getting the disease.

Just prior to her untimely death, she called on Congress to double the funding for Alzheimer's research at the NIH to $1 billion by 2003. As co-chair with the gentleman from New Jersey (Mr. SMITH) of the Congressional Task Force on Alzheimer's Disease, I always valued Maureen's sage advice on task force goals and legislative initiatives.

In March 2000 when Maureen came to lobby Congress for increased Alzheimer's research funding, in between a busy schedule of press interviews and visits with congressional leaders, she spent several hours meeting with members of the Alzheimer's Task Force, including the gentleman from New Jersey (Mr. SMITH) and myself. In that meeting, Maureen expertly outlined the research breakthroughs of the 1990s and reiterated that scientists were in a race against time to find the answers to Alzheimer's disease.

With grace and warmth and delightful wit, Maureen convinced lawmakers to pay attention to the scourge plaguing one in 10 Americans over the age of 65, and 50 percent of the seniors over the age of 85. She took the tragedy of her own father's illness and chose to fight not only for him, but also for the 4 million Americans who currently have Alzheimer's disease and for the 15 million Americans who are predicted to have this disease by the time all of the baby boomers have retired, a staggering number of Americans.

Mr. Speaker, it takes tremendous courage to take on Alzheimer's disease in such a public way when a parent is still at home in a deteriorating condition from that same disease. She knew that there was no time to waste, and so she took on the challenge despite a heavy emotional burden. Even as her own health declined, she refused to let up in her advocacy role, continuing her fight for more Federal research dollars from her hospital bed, and later while recovering from cancer treatments at home in California.

Mr. Speaker, I can think of no better way to pay tribute to Maureen's legacy than to continue her fight to create a world without Alzheimer's disease. Although we have lost her voice, Maureen's passion and energy live on

and continue to inspire us as we work to improve the quality of life for those affected by Alzheimer's disease.

Mr. Speaker, I am deeply saddened by the loss of Maureen and miss her dearly. My thoughts and prayers are with her husband, Dennis, her daughter, Rita, and the entire Reagan family. May she rest in peace.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, I rise in support of House Joint Resolution 60 honoring Maureen Reagan, and I recognize the gentleman from Massachusetts (Mr. MARKEY) for his extraordinary thoughtfulness and consideration in offering this resolution. This resolution speaks as well of Maureen Reagan as it does of its author, the gentleman from Massachusetts (Mr. MARKEY), for his fine work as co-chair of the Alzheimer's task force and for the great work the gentleman has done for bringing attention to this issue.

Maureen Reagan was a vivacious woman with a passion for life and family and country. She had a contagious enthusiasm, an unshakeable will for all of the interests that she pursued. She actively campaigned for her father, former President Ronald Reagan, and spent much energy in the 1980s fundraising for Republican women who were seeking office.

Although she was nationally recognized for her political activities and her commentary, it was her work for victims of Alzheimer's that brought the most attention to her life and perhaps her greatest contribution. When the disease silenced the great communicator, Maureen Reagan, who shared her father's knack for public speaking, became the national spokeswoman for the Alzheimer's Association, and her advocacy raised awareness of not only her father's condition, but also the 4 million Americans currently living with Alzheimer's.

□ 1615

In the final years of her life she traveled the Nation nearly nonstop, ignoring her own failing health, to gather support for Alzheimer's patients and their caregivers.

She was unwavering in her enthusiasm and optimism that a cure was close at hand and she made several appearances here before Congress, calling for increased Federal spending. Although Ms. Reagan did not live to see a cure for Alzheimer's, the national recognition of the disease and the resulting progress and research have much to do with her efforts. Just last week a report was issued that a single ibuprophen tablet taken each day can literally limit the onset and, in fact, diminish and decrease the onset of Alzheimer's disease. That kind of research is possible today, those breakthroughs, because of much of the work that she did. Her tireless commitment and campaign against Alzheimer's will serve as an inspiration for those who continue to fight this ghastly disease.

Again, I want to thank the gentleman from Massachusetts (Mr. MARKEY), my dear friend, for his thoughtfulness and consideration in bringing this resolution forward, and I urge its adoption.

Mr. BROWN of Ohio. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I would like to thank the gentleman from Florida (Mr. BILIRAKIS), my colleague and good friend. I am happy to be here today to come to the floor of the House to join with my colleagues in the House to commemorate the life and work of a dear friend, the strong and vibrant Maureen Reagan.

Mr. Speaker, many things have been said on this House Floor today about Maureen Reagan, all of which I share, and I would like to join in and add my voice to the same great comments that have been made about Maureen Reagan and her life and her dedication to what she did. The numerous contributions that Maureen made to the causes and charities that she pursued would remind all of us of the person, the courage, and the passion and the leadership qualities that she shared with her father.

Mr. Speaker, many times I have met with Maureen and her family, either at her home in California or mine in Nevada, and never once did Maureen, even though she was afflicted with cancer, ever complain about her status, her health, or the fact that she did have a terrible disease called cancer. She was always vibrant, she was always outspoken, always talking positively and passionately about the future and where she was going with her work in dealing with these charitable organizations and issues that she did deal with.

In putting these great qualities to work, Maureen would go on to leave many of her own footsteps across this Nation for many to follow. She never once needed her name to prove both her effectiveness or her charm. Maureen's deep commitment to raising the awareness of Alzheimer's disease and the importance of research confirmed her status as a selfless, dedicated benefactor for millions of Americans. I extend my heartfelt prayers and deepest condolences to Maureen's husband, Dennis, and her lovely daughter, Rita. Indeed, the sense of loss that our Nation has felt is in no comparison to that, I am sure, of Maureen's own family.

Mr. Speaker, I would like to thank the gentleman from Massachusetts (Mr. MARKEY), as well as the gentleman from New Jersey (Mr. SMITH) for bringing H.J. Res. 60 to the floor, and I urge my colleagues to join me in honoring this courageous and amazing woman. Maureen's contributions to her family and Nation will certainly never be forgotten.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, I want to thank, as did the gentleman from Louisiana (Mr. TAUZIN) a few moments ago, our very distinguished colleague from Massachusetts (Mr. MARKEY) for his kindness in sponsoring this legislation. I think it shows a real sensitivity for Maureen Reagan who was a very courageous woman, wife and mother, and a tireless advocate, a champion, for research and medical assistance for Alzheimer's patients and, equally important, for their caregivers.

As we all know, one of those victims includes her own father, President Ronald Reagan. Ronald Reagan was a fighter since his early days growing up during the Great Depression, but he turned his disclosure that he suffered from Alzheimer's Disease into a battle for more research money and more assistance for his fellow patients. When Ronald Reagan was unable to continue this fight because of his own deteriorating condition, his daughter, Maureen Reagan, stepped up to the plate and became one of the most tenacious advocates for Alzheimer's research and for trying to find a cure for this horrific disease. Her untimely death to cancer this past summer caused the Alzheimer's community to lose one of its best.

Significantly, even while battling cancer during 5 tough years, Maureen never rested in her quest to try to procure more research money and to help more patients and their loved ones with this terrible disease. Not long before she died, as the gentleman from Massachusetts pointed out earlier, she called on Congress to double to $1 billion the amount of money allocated for Alzheimer's research by the National Institutes of Health.

As was also pointed out, this disease afflicts so many of our families. Half of those over age 85 suffer to some degree from Alzheimer's, and 1 of every 10 Americans over the age of 65 also is in some stage of Alzheimer's disease. The current number of affected—4 million—will grow to 14 million people if we do not take prompt action and do all that is humanly possible to mitigate and hopefully eradicate this terrible disease.

Maureen Reagan was a great champion. She will be sorely missed in this battle. And we want to just, and I know this will be a unanimous vote on both

sides of the aisle, say to her loved ones, to her husband and to her daughter and to the entire family, how much we deeply care for them and how we miss Maureen Reagan.

Mr. THOMAS. Mr. Speaker, I rise today to support H.J. Res. 60 and to pay tribute to my friend Maureen Reagan, a loving wife and mother, a dedicated member of the Republican Party, and a crusader for Alzheimer's Disease sufferers. I also extend my deepest condolences to her husband, my friend and former constituent, Dennis Revell, and their daughter Rita.

I had the privilege of knowing Maureen for over two decades. In 1980, she was a tireless volunteer in her father's campaign for the White House. Following his election, she became a vigorous activist for female Republicans, raising funds for over 100 candidates. She also served in an appointed position in the California Republican Party, and later ran to be a Member of this House.

After President Reagan poignantly shared with the world his Alzheimer's diagnosis, Maureen continued to dedicate her life to another worthy cause: educating the American public about this debilitating and degenerative disease. Even as Maureen was personally battling cancer, her resolve in making Americans more aware of Alzheimer's disease was remarkable; her passion unyielding. Testifying in front of congressional committees, Ms. Reagan added her voice in promoting the worthy work of our federal medical research agencies. Until the very end, Maureen continually reminded all of us how public advocacy can be vibrant and how public service can be courageous.

She will be missed by her family and friends, by the Alzheimer's patients for whom she worked so tirelessly, by the Republican party, and indeed by all Americans.

Ms. HARMAN. Mr. Speaker, one of the best parts of seeking my seat in Congress was meeting Maureen Reagan in 1992, when she ran in the primary for her party's nomination. It was my good fortune that, after Maureen lost, her supporters became mine and she and I became great friends.

Maureen brought an intelligence and vibrancy to the campaign and although she did not win her party's nomination, she continued to influence many policy debates, particularly in health care after her father revealed he was suffering from Alzheimer's disease.

I am deeply saddened to lose a friend. California and the nation have lost a strong and active voice.

I join my colleagues in honoring the life of Maureen Reagan.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the joint resolution, H. J. Res. 60, as amended.

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

A motion to reconsider was laid on the table.

ADMINISTRATIVE SIMPLIFICATION COMPLIANCE ACT

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3323) to ensure that covered entities comply with the standards for electronic health care transactions and code sets adopted under part C of title XI of the Social Security Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3323

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 ''Administrative Simplification Compliance Act''.

SEC. 2. EXTENSION OF DEADLINE FOR COVERED ENTITIES SUBMITTING COMPLIANCE PLANS.

(a) IN GENERAL.—

(1) EXTENSION.—Subject to paragraph (2), notwithstanding section 1175(b)(1)(A) of the Social Security Act (42 U.S.C. 1320d–4(b)(1)(A)) and section 162.900 of title 45, Code of Federal Regulations, a health care provider, health plan (other than a small health plan), or a health care clearinghouse shall not be considered to be in noncompliance with the applicable requirements of subparts I through R of part 162 of title 45, Code of Federal Regulations, before October 16, 2003.

(2) CONDITION.—Paragraph (1) shall apply to a person described in such paragraph only if, before October 16, 2002, the person submits to the Secretary of Health and Human Services a plan of how the person will come into compliance with the requirements described in such paragraph not later than October 16, 2003. Such plan shall be a summary of the following:

(A) An analysis reflecting the extent to which, and the reasons why, the person is not in compliance.

(B) A budget, schedule, work plan, and implementation strategy for achieving compliance.

(C) Whether the person plans to use or might use a contractor or other vendor to assist the person in achieving compliance.

(D) A timeframe for testing that begins not later than April 16, 2003.

(3) ELECTRONIC SUBMISSION.—Plans described in paragraph (2) may be submitted electronically.

(4) MODEL FORM.—Not later than March 31, 2002, the Secretary of Health and Human Services shall promulgate a model form that persons may use in drafting a plan described in paragraph (2). The promulgation of such form shall be made without regard to chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(5) ANALYSIS OF PLANS; REPORTS ON SOLUTIONS.—

(A) ANALYSIS OF PLANS.—

(i) FURNISHING OF PLANS.—Subject to subparagraph (D), the Secretary of Health and Human Services shall furnish the National Committee on Vital and Health Statistics with a sample of the plans submitted under paragraph (2) for analysis by such Committee.

(ii) ANALYSIS.—The National Committee on Vital and Health Statistics shall analyze the sample of the plans furnished under clause (i).

(B) REPORTS ON SOLUTIONS.—The National Committee on Vital and Health Statistics shall regularly publish, and widely disseminate to the public, reports containing effective solutions to compliance problems identified in the plans analyzed under subparagraph (A). Such reports shall not relate specifically to any one plan but shall be written for the purpose of assisting the maximum number of persons to come into compliance by addressing the most common or challenging problems encountered by persons submitting such plans.

(C) CONSULTATION.—In carrying out this paragraph, the National Committee on Vital and Health Statistics shall consult with each organization—

(i) described in section 1172(c)(3)(B) of the Social Security Act (42 U.S.C. 1320d–1(c)(3)(B)); or

(ii) designated by the Secretary of Health and Human Services under section 162.910(a) of title 45, Code of Federal Regulations.

(D) PROTECTION OF CONFIDENTIAL INFORMATION.—

(i) IN GENERAL.—The Secretary of Health and Human Services shall ensure that any material provided under subparagraph (A) to the National Committee on Vital and Health Statistics or any organization described in subparagraph (C) is redacted so as to prevent the disclosure of any—

(I) trade secrets;

(II) commercial or financial information that is privileged or confidential; and

(III) other information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(ii) CONSTRUCTION.—Nothing in clause (i) shall be construed to affect the application of section 552 of title 5, United States Code (commonly known as the ''Freedom of Information Act''), including the exceptions from disclosure provided under subsection (b) of such section.

(6) ENFORCEMENT THROUGH EXCLUSION FROM PARTICIPATION IN MEDICARE.—

(A) IN GENERAL.—In the case of a person described in paragraph (1) who fails to submit a plan in accordance with paragraph (2), and who is not in compliance with the applicable requirements of subparts I through R of part 162 of title 45, Code of Federal Regulations, on or after October 16, 2002, the person may be excluded at the discretion of the Secretary of Health and Human Services from participation (including under part C or as a contractor under sections 1816, 1842, and 1893) in title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(B) PROCEDURE.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) (other than the first and second sentences of subsection (a) and subsection (b)) shall apply to an exclusion under this paragraph in the same manner as such provisions apply with respect to an exclusion or proceeding under section 1128A(a) of such Act.

(C) CONSTRUCTION.—The availability of an exclusion under this paragraph shall not be construed to affect the imposition of penalties under section 1176 of the Social Security Act (42 U.S.C. 1320d–5).

(D) NONAPPLICABILITY TO COMPLYING PERSONS.—The exclusion under subparagraph (A) shall not apply to a person who—

(i) submits a plan in accordance with paragraph (2); or

(ii) who is in compliance with the applicable requirements of subparts I through R of part 162 of title 45, Code of Federal Regulations, on or before October 16, 2002.

(b) SPECIAL RULES.—

(1) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(A) as modifying the October 16, 2003, deadline for a small health plan to comply with

the requirements of subparts I through R of part 162 of title 45, Code of Federal Regulations; or

(B) as modifying—

(i) the April 14, 2003, deadline for a health care provider, a health plan (other than a small health plan), or a health care clearinghouse to comply with the requirements of subpart E of part 164 of title 45, Code of Federal Regulations; or

(ii) the April 14, 2004, deadline for a small health plan to comply with the requirements of such subpart.

(2) APPLICABILITY OF PRIVACY STANDARDS BEFORE COMPLIANCE DEADLINE FOR INFORMATION TRANSACTION STANDARDS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, during the period that begins on April 14, 2003, and ends on October 16, 2003, a health care provider or, subject to subparagraph (B), a health care clearinghouse, that transmits any health information in electronic form in connection with a transaction described in subparagraph (C) shall comply with the requirements of subpart E of part 164 of title 45, Code of Federal Regulations, without regard to whether the transmission meets the standards required by part 162 of such title.

(B) APPLICATION TO HEALTH CARE CLEARINGHOUSES.—For purposes of this paragraph, during the period described in subparagraph (A), an entity that processes or facilitates the processing of information in connection with a transaction described in subparagraph (C) and that otherwise would be treated as a health care clearinghouse shall be treated as a health care clearinghouse without regard to whether the processing or facilitation produces (or is required to produce) standard data elements or a standard transaction as required by part 162 of title 45, Code of Federal Regulations.

(C) TRANSACTIONS DESCRIBED.—The transactions described in this subparagraph are the following:

(i) A health care claims or equivalent encounter information transaction.

(ii) A health care payment and remittance advice transaction.

(iii) A coordination of benefits transaction.

(iv) A health care claim status transaction.

(v) An enrollment and disenrollment in a health plan transaction.

(vi) An eligibility for a health plan transaction.

(vii) A health plan premium payments transaction.

(viii) A referral certification and authorization transaction.

(c) DEFINITIONS.—In this section—

(1) the terms ''health care provider'', ''health plan'', and ''health care clearinghouse'' have the meaning given those terms in section 1171 of the Social Security Act (42 U.S.C. 1320d) and section 160.103 of title 45, Code of Federal Regulations;

(2) the terms ''small health plan'' and ''transaction'' have the meaning given those terms in section 160.103 of title 45, Code of Federal Regulations; and

(3) the terms ''health care claims or equivalent encounter information transaction'', ''health care payment and remittance advice transaction'', ''coordination of benefits transaction'', ''health care claim status transaction'', ''enrollment and disenrollment in a health plan transaction'', ''eligibility for a health plan transaction'', ''health plan premium payments transaction'', and ''referral certification and authorization transaction'' have the meanings given those terms in sections 162.1101, 162.1601, 162.1801, 162.1401, 162.1501, 162.1201, 162.1701, and 162.1301 of title 45, Code of Federal Regulations, respectively.

SEC. 3. REQUIRING ELECTRONIC SUBMISSION OF MEDICARE CLAIMS.

(a) IN GENERAL.—Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended—

(1) in subsection (a)—

(A) by striking ''or'' at the end of paragraph (20);

(B) by striking the period at the end of paragraph (21) and inserting ''; or''; and

(C) by inserting after paragraph (21) the following new paragraph:

''(22) subject to subsection (h), for which a claim is submitted other than in an electronic form specified by the Secretary.''; and

(2) by inserting after subsection (g) the following new subsection:

''(h)(1) The Secretary—

''(A) shall waive the application of subsection (a)(22) in cases in which—

''(i) there is no method available for the submission of claims in an electronic form; or

''(ii) the entity submitting the claim is a small provider of services or supplier; and

''(B) may waive the application of such subsection in such unusual cases as the Secretary finds appropriate.

''(2) For purposes of this subsection, the term 'small provider of services or supplier' means—

''(A) a provider of services with fewer than 25 full-time equivalent employees; or

''(B) a physician, practitioner, facility, or supplier (other than provider of services) with fewer than 10 full-time equivalent employees.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to claims submitted on or after October 16, 2003.

SEC. 4. CLARIFICATION WITH RESPECT TO APPLICABILITY OF ADMINISTRATIVE SIMPLIFICATION REQUIREMENTS TO MEDICARE+CHOICE ORGANIZATIONS.

Section 1171(5)(D) of the Social Security Act (42 U.S.C. 1320d(5)(D)) is amended by striking ''Part A or part B'' and inserting ''Parts A, B, or C''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION OF REGULATIONS.

(a) IN GENERAL.—Subject to subsection (b), and in addition to any other amounts that may be authorized to be appropriated, there are authorized to be appropriated a total of $44,200,000, for—

(1) technical assistance, education and outreach, and enforcement activities related to subparts I through R of part 162 of title 45, Code of Federal Regulations; and

(2) adopting the standards required to be adopted under section 1173 of the Social Security Act (42 U.S.C. 1320d–2).

(b) REDUCTIONS.—

(1) MODEL FORM 14 DAYS LATE.—If the Secretary fails to promulgate the model form described in section 1(a)(4) by the date that is 14 days after the deadline described in such section, the amount referred to in subsection (a) shall be reduced by 25 percent.

(2) MODEL FORM 30 DAYS LATE.—If the Secretary fails to promulgate the model form described in section 1(a)(4) by the date that is 30 days after the deadline described in such section, the amount referred to in subsection (a) shall be reduced by 50 percent.

(3) MODEL FORM 45 DAYS LATE.—If the Secretary fails to promulgate the model form described in section 1(a)(4) by the date that is 45 days after the deadline described in such section, the amount referred to in subsection (a) shall be reduced by 75 percent.

(4) MODEL FORM 60 DAYS LATE.—If the Secretary fails to promulgate the model form described in section 1(a)(4) by the date that is 60 days after the deadline described in such section, the amount referred to in subsection (a) shall be reduced by 100 percent.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent that the gentleman from California (Mr. STARK) be permitted to control 10 minutes of the time on this side.

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

There was no objection.

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that the gentlewoman from Connecticut (Mrs. JOHNSON) on behalf of the gentleman from California (Mr. THOMAS) be permitted to control 10 minutes of time on this side.

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

There was no objection.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on this legislation now being considered.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 3323, the Administrative Simplification Compliance Act introduced by the gentleman from Ohio (Mr. HOBSON).

A little over 5 years ago, Congress passed the Health Insurance Portability and Accountability Act, or HIPAA, a far-reaching law that imposed significant new requirements on health care plans and providers and created basic consumer protections in a number of areas. One of the most important provisions of the act, although infrequently discussed in Congress, relates to administrative simplification. This provision implements common standards for electronic health care transactions. It was designed to increase the health care system's efficiency and effectiveness, to improve law enforcement's ability to prevent fraud and abuse, and generally to reduce administrative burdens for plans and providers.

We in Congress strongly support the goals of administrative simplification. The provision's implementation will eliminate the confusing patchwork of electronic and paper standards that exist in the health care marketplace. However, as plans and providers move toward common electronic standards,

we must also recognize that their efforts will require a significant amount of time and money, and that perhaps the time frames Congress originally set forth in statute to comply with these rules should be modified.

On August 17, 2000, the Department of Health and Human Services published its final rule implementing the standards for electronic health care transactions. The rule required all plans and providers to come into compliance with administrative simplification standards by October 16, 2002. From speaking with many people in the health care system during the past year, we have concluded that this deadline is much too ambitious.

That is why we are here today. The Hobson legislation will provide plans and providers with one additional year to come into compliance with the administrative simplification standards. His legislation, which is a compromise product negotiated between the bill's sponsors, the gentleman from Arizona (Mr. SHADEGG), the Committee on Energy and Commerce, and the Committee on Ways and Means allows covered entities the extra time they need to ensure that they will continue taking steps to come into compliance.

I would like to point out that one important change to the legislation is now in the bill in its reintroduced version. In its original form, H.R. 3323 imposed a $1 user fee on every paper claim submitted to the Medicare program. This provision has been replaced with a requirement that health care entities, with the exception of small providers, submit their claims to the Medicare program in electronic format. This requirement refinement significantly improves the bill and eliminates a tremendous burden for providers and the government.

Mr. Speaker, this legislation has been vetted extensively with the stakeholders in the health care system. It deserves everyone's vote and we should all be grateful for the fine work of the gentleman from Ohio (Mr. HOBSON) in the area.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, in 1996 Congress passed landmark legislation, and most of us know it as Kennedy/Kassebaum or HIPAA, that answered several difficult questions: How do we minimize coverage disruptions and barriers in the private health insurance market? How do we improve the efficiency of health care financing and delivery in the United States?

The gentlemen from my home State of Ohio (Mr. SAWYER) and (Mr. HOBSON) took on the second question. They championed commonsense provisions in HIPAA that ensure the transition to fully electronic transfers between health plans and providers. Electronic claiming is far superior to the old-fashioned paper version. It saves money, it saves trees, and it typically saves patients from paying out-of-pocket for services ultimately covered by insurance.

The deadline for implementing phase 1 of this transition is October 2002, but the reality is some sectors of the health industry and State governments need extra time to make the technical and the procedural changes necessary to achieve compliance. Delaying the compliance deadlines for administrative simplification is not an action any Member of Congress, Mr. Speaker, should take lightly.

CMS has estimated that the electronic claims processing can save $30 billion over 10 years. Any delay in implementation reduces, obviously, those associated savings. Health plans and providers throughout the country have invested time and money to gear up for this transition. To the extent that their new operations sit idle, they are losing money too. That said, it would be inappropriate to fault both public and private sector entities that work in good faith against a deadline they did not create and found they simply could not meet.

Mr. Speaker, H.R. 3323 accommodates the concerns of those on both sides of this issue. Under this legislation, health plans and providers must either meet the current compliance deadline or demonstrate their plans for achieving compliance by October 2003. This one-time 1-year extension creates a cushion for organizations bumping up against the current deadline without permitting an undue or indefinite delay.

Mr. Speaker, I am pleased to support this reasonable compromise. I again thank the gentlemen from Ohio (Mr. SAWYER) and (Mr. HOBSON) for their good work.

□ 1630

Mr. TAUZIN. Mr. Speaker, I am very pleased to yield 3 minutes to the distinguished gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, I appreciate the gentleman yielding time to me.

Mr. Speaker, I rise in support of H.R. 3323, a bill that would ensure that stakeholders in America's health care system are able to comply with regulations to standardize electronic health care transactions.

This legislation extends by 1 year the deadline for compliance with administrative simplification provisions created as part of the Health Insurance Portability and Accountability Act of 1996, which we fondly pronounce as HIPAA.

The legislation also implements an orderly transition process that will ensure that covered entities will be in a position to implement the new regulations by October of 2003.

In 1996, Congress passed HIPAA to improve efficiency and effectiveness in the health care system, to make it easier to detect fraud and abuse, facilitate access to health and medical information by researchers, and to reduce administrative costs.

When we passed HIPAA in 1996, it was the largest government action in health care since the creation of Medicare. Administrative simplification and standardization of the way medical data is transmitted electronically is vital to improving the quality of medical care. The American health care system currently has more than 12 million providers, plans, suppliers, and other participants that require access to medical data.

Today, there is no single standard by which this data can be exchanged electronically. Therefore, the full benefit of the technological revolution has yet to be implemented by the health care industry. Standardization of electronic data has the potential to simplify administrative functions, increase processing of medical claims, and improve the quality of care while substantially reducing health care costs.

However, flawed implementation of this process will prevent the full benefit of standardization from being realized. This bill alleviates this problem by requiring that each stakeholder seeking an extension submit a report to the Secretary of Health and Human Services on how they plan to implement electronic standardization. This will allow the Secretary to have access to the best transition plans that are proposed, allowing for an exchange of information that will benefit stakeholders less prepared to implement this process.

H.R. 3323 is a thoughtful and logical approach to ensuring that health care beneficiaries are able to take the fullest advantage of the coming revolution in medical care. I thank the gentleman from Arizona (Mr. SHADEGG) for taking the lead on this issue for the Committee on Energy and Commerce and the gentleman from Ohio (Mr. HOBSON) for introducing the support legislation.

I urge my colleagues to join me in supporting H.R. 3323.

Mr. TAUZIN. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. HOBSON), the author of the legislation.

The SPEAKER pro tempore (Mr. CULBERSON). The gentleman from Ohio (Mr. HOBSON) is recognized for 4 minutes.

Mr. HOBSON. Mr. Speaker, we have before us today a reasonable and balanced bill that provides the final push for an idea that my colleague, the gentleman from Ohio (Mr. SAWYER), and myself have been working on for 7 years: The simplification of paperwork

associated with paying health care costs.

In 1993, my colleague, the gentleman from Ohio, began to develop legislation that would create a standard framework for electronic filing of health care claims. Today, we all recognize electronic health care filing represents significant advantages over paper filings for every level of health care, from providers to insurance.

However, the patchwork of different computer systems needed to electronically file claims with different health care payers made the process a complicated, expensive, and unwieldy situation.

In 1996, our work culminated in the administrative simplification provisions included in the Health Insurance Portability and Accountability Act of 1996, which required a common format for electronic health care claims. This would have the effect of simplifying the administrative burden associated with health care transactions, and would, according to the Health Care Financing Administration at the time, produce $9.9 billion in savings for the health care community.

By reducing administrative overhead, we also help improve the quality of health care by freeing up resources now devoted to paperwork and administration. However, for a variety of reasons, the regulations implementing the administrative simplification provisions enacted in 1996 were delayed.

Now, 5 years later, two final rules are set to take effect shortly. The first, regarding medical privacy, is left untouched by the legislation before this body today, and will take effect as scheduled in April of 2003. The second, establishing code sets in transactions, is set to take effect October 16, 2002.

However, the current state of readiness in the health care community is inconsistent, and significant sectors have argued for additional time to undertake systems changes necessary to reach compliance. At the same time, some entities clearly will be ready for the first set of standards.

Mr. Speaker, the gentleman from Ohio (Mr. SAWYER) and I recognize the need for additional time for some entities to come into compliance. At the same time, we must ensure that this time is fully utilized by all the parties and that those entities that want to move forward can do so without penalty.

Our legislation provides a solution to the current status by establishing two tracks for entities covered by the original statute. For those plans and providers who will be ready to go by October, 2002, they can proceed under the original timetable. These entities can be sending and receiving electronic transactions under the new standardized format in October of next year.

However, our legislation also recognizes some entities may have underestimated what was needed to be operationally compliant with the standards of 2002. That is why our bill includes a provision which allows these plans and providers to file a plan with the Secretary of the Department of Health and Human Services explaining the steps they will take to reach compliance.

One other important fact. This bill also ensures that the additional time provided is fully utilized, from the government's perspective. Our bill includes an authorization for $44.2 million for the Department of Health and Human Services which will allow the Department to adequately prepare for the transition.

This authorization will support activities at the Department associated with finishing the remaining work on the original standards providing technical assistance and educational outreach and enforcement activities.

Finally, our bill requires the filing of electronic claims with Medicare by extending the deadline to October 16, 2003, with the exception for small providers and those physically unable to file electronically. This will help prevent backsliding to paper transactions and will help focus all entities on reaching the cost-saving goals of the original statute.

In conclusion, this statute represents a balanced package of measures that does not simply delay the administrative simplification provisions, but rather, provides a clear plan and one-time extension to reach compliance in the marketplace.

I urge my colleagues to support this legislation; and I would like to thank the staffs of both committees, my staff, Michael Beer, the staff of the gentleman from Ohio (Mr. SAWYER), and the staff of the Committee on Commerce.

I would like to thank the leadership and the staff of the Committee on Ways and Means, and particularly the leadership of the gentleman from Texas (Mr. ARMEY) and the Speaker, who encouraged us to bring this bill forward. We think we have done something good here.

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

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

Mr. STARK. Mr. Speaker, I appreciate the gentleman's leadership in this.

I heard the gentleman's statement about the authorization for I think the $44.2 million for CMS for the Department of Health and Human Services to carry out their work.

I know, as a distinguished member of the Committee on Appropriations, that that will come to the gentleman in another form.

I often feel that we have added many chores to the Department of Health and Human Services without being so concerned as to how they will perform the activities. I want to commend the gentleman for thinking ahead and asking for the support for the Department of Health and Human Services to see that they have the resources to carry out this work. I would like to join with him to see that we get the appropriated funds.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from Summit and Portage Counties, Ohio (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I thank my friend, the gentleman from Lorain County, Ohio, for yielding time to me. I particularly want to thank my colleague, the gentleman from Ohio (Mr. HOBSON), for his leadership, his persistence, and his hard work, and in the last year, his attention to detail with regard to the administration of this.

I would also like to thank the chairman and ranking members of the Committee on Energy and Commerce and the Committee on Ways and Means, and particularly, their counterparts in the leadership of the subcommittees having to do with health care of both bodies.

Mr. Speaker, I want to thank them for their assistance on this legislation, for bringing it to the floor. This measure is a bipartisan compromise which keeps administrative simplification on track and should be passed by the House. The gentleman from Ohio (Mr. HOBSON) and I first started working on this back in the early 1990s. We met with a broad spectrum of industry groups on how to streamline the processes of administrative information and financial transactions.

By standardizing these efforts for electronic transmission, we, along with the industry, strongly believed that this would reduce paperwork, limit fraud and abuse where it may or may not exist, and help contain health care costs.

Every time we stand up here and talk about limiting waste, fraud and abuse, we do it too often by simply cutting money with the hopes that under that rubric, dollars lost can somehow go unreplaced. This goes a great deal further. It outlines a practical, hard-headed way to achieve the kinds of savings that we are talking about, and have been in this legislation for the last 5 years.

Back in September of 1993, the gentleman from Ohio (Mr. HOBSON) and I introduced this legislation for the first time. After 3 years of extensive and detailed consultation, the bill was included in HIPAA. According to HHS, as we have heard, it is expected to save about $30 billion.

Now, 5 years after enactment of the legislation, the first of a series of regulations are due to take effect next year. While an awful lot of health plans, hospital, and stakeholders have invested millions of dollars to be

ready, some plans and some State Medicaid systems simply will not be in compliance in time.

That concern that this would disrupt transmission of health and financial information and cause any number of problems for the health care consumer is what motivates this legislation today. This bipartisan effort will prevent that from happening while still ensuring that the regulations are implemented in a timely manner.

For those who will not be ready, the bill holds them accountable by requiring them to file a plan documenting how they will reach compliance. If they fail to do so, they may not be able to participate in Medicare.

The document must include a budget, a work plan, and an implementation strategy for reaching compliance. This will ensure that at the end of the deadline all providers, plans, and other health care groups are ready. The plan must also outline a time frame for electronic testing, which means that consumers can be assured that there will be no disruptions in delivery, although the bill does provide additional time to reach compliance.

Everyone involved in this should know that this is a one-time deal. We hope Members will not come back again asking for any further delays. The answer the next time will be, I am certain, a clear and inarguable no.

This legislation will facilitate a smooth transition to processing electronic transactions and medical information by authorizing funds for HHS to issue the next set of regulations, and perhaps, even more importantly, to provide outreach, education, and technical assistance to those who seek to comply.

Many doctors' offices will need that kind of help in reaching compliance. This bill gives HHS the ability to help them.

Almost 10 years ago, we set out to make the health care system more efficient by encouraging the responsible electronic transfer of data. This legislation will help us meet that goal. I urge its passage.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Hobson bill. It is instructive that we passed this directive in 1996. That is 5 years ago. This was going to save the system $30 billion through greater efficiency, so it was with great conviction that many of us resisted, including the gentleman from California (Chairman THOMAS) of the Committee on Ways and Means, resisted a delay, and particularly an open-ended delay, of the implementation of these administrative simplification provisions of the Health Insurance Portability and Accountability Act.

However, in recent weeks it has become very clear that a number of providers and plans, as well as the State governments, have some legitimate reasons why they will have a hard time complying by the October 2002 deadline and have asked for a year's extension.

The gentlemen from Ohio (Mr. HOBSON and Mr. SAWYER) have developed a very responsible compromise which the Committee on Ways and Means supports, the Committee on Energy and Commerce supports, and really is a good example of how rational thinking can guide the Nation effectively.

This bill just creates a smoother glide path to compliance for all entities. It is not open-ended; it does require everybody who is going to be responsible to comply to think about what it is going to take to come into compliance with this very important provision, but one that is complicated, particularly for small providers or very, very large providers in this era of rapid change.

It forces those responsible to comply to think about what budget it will take, what work plan will accomplish the goal, what needs to be tested, what strategy needs to be adopted to impact and accomplish compliance with the HIPAA requirements. That is good. That means it will happen more surely and with better or greater effectiveness.

It not only requires that kind of planning, but it does not discourage those who can comply sooner.

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I am particularly pleased that the Department of Health and Human Services under this legislation would be required to issue model guidance plans. So a lot of small providers can just take this plan, fill in the blanks and know exactly what they need to do and how they need to do it.

In addition, I am pleased that the bill requires the Secretary to disseminate reports from evaluating these plans that provide solutions to some of the problems that are identified through reviewing the compliance plans. This creates, in fact, a new partnership between government and the private sector as we near the compliance date for the HIPAA requirements, and I think that is going to mean a better quality of compliance as well as surer compliance with a new date a year from 2002, March 31.

I am also pleased that the bill does actually require all Medicare claims to be submitted electronically with the following exceptions: If there is no method to submit an electronic claim; or if one is a very small provider, a facility with fewer than 25 full-time employees; or a physician practice with fewer than 10 full-time employees; or in unusual circumstances as determined by the Secretary. I also believe that many of those small providers are going to use electronic means of submission because they are going to find it much faster, much more efficient, they will get paid more rapidly, and it will be more accurate.

But this bill does recognize that small compliers and certain other situations may require an exception. So I commend my colleagues, the gentleman from Ohio (Mr. Hobson) and the gentleman from Ohio (Mr. Sawyer) for moving with and through both the Committee on Ways and Means and the Committee on Energy and Commerce to bring this to the floor. It was really their knowledge of this issue, their insight, their determination that helped us find this very constructive solution.

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

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

Mr. Speaker, I add my congratulations to the gentleman from Ohio (Mr. HOBSON) and the gentleman from Ohio (Mr. SAWYER) for working to push this bill to fruition.

Mr. Speaker, I rise in support of H.R. 3323. I remind my colleagues that the standards that we are talking about today for electronic claims and referrals are being passed because the health care industry asked for our help.

Unlike the banking industry or the securities industry and others, the health care providers could not agree amongst themselves on how to talk to each other electronically. They asked us to step in and help establish standards, and now many of the sectors of the health industry have realized the wisdom of the saying, ''Be careful what you wish for, you might get it.''

They support the goals of the administrative simplification, but they now say they underestimated the effort it will take for them to comply, and they say they need more time. I think some of the sectors, particularly hospitals, are ready to go and would like to participate in what they think might be up to $30 billion in savings. And I agree. I want these simplification plans to be adopted as soon as possible and with as little delay as we can allow them and still let them officially go ahead and put these rules into effect.

I would like to make one thing quite clear for the record, and that is that this bill does not delay the HIPAA privacy regulation, not for health plans, not for health care providers, not for health care clearinghouses. There has been some concern that extending the transaction and codes sets compliance deadline would effectively exempt some health care providers and health care clearinghouses from the privacy rule.

This bill should remove any and all ambiguity on that point. Any health care provider or health care clearinghouse that would be subject to the privacy rule before we pass this bill will still be subject to the privacy rule after we pass this bill, and they will need to

comply by April of 2003. The bill does not delay the privacy compliance deadline or negatively impact the privacy regulation. It is that simple.

Having said that, again, all the people who have worked so diligently to bring this compromise and this bill to the floor, indeed, are to be congratulated. I hope it will save money, help the beneficiaries get their information more quickly and more efficiently, and help the providers provide good medical care to more people for less money over the years to come.

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington (Ms. DUNN), a member of the Subcommittee on Health of the Committee on Ways and Means. She is a hardworking member.

Ms. DUNN. Mr. Speaker, I rise in support of H.R. 3323. That is a bill to delay the administrative simplification rules for 1 year. I want to thank the gentleman from California (Chairman THOMAS), the chairwoman of the Subcommittee on Health, the gentlewoman from Connecticut (Mrs. JOHNSON), and particularly my colleague, the gentleman from Ohio (Mr. HOBSON) for working very, very hard to put a compromise together that we could live with. They worked diligently and provided a 1-year delay without implementing a user fee.

I would like to thank the gentleman from Arizona (Mr. SHADEGG) for working with me earlier this year when we introduced legislation to provide for a 2-year delay.

While I would have preferred our bill, I recognize that the compromise we have today balances the need of maintaining oversight and encouraging all providers to comply with the regulations.

I am very pleased that the user fees were removed from this legislation. Like many of my colleagues, I was concerned about requiring some physician to pay a user fee when they will experience a reduction in Medicare payments next year. This delay is vital to help those struggling to meet the challenges of compliance. The people I represent, the doctors, the hospitals and the health plans, support a delay.

I ask my colleagues to support this legislation. It is good legislation. Let us get it to the President's desk before the end of the year.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Mr. Speaker, I want to thank my colleague, the gentleman from Ohio (Mr. BROWN) as well as the gentleman from Ohio (Mr. SAWYER) again, and all the people who worked on this.

I want to explain to people this is a very complicated situation. This is not easy to do. It is not easy to understand what we are doing. This is a massive change in how we do things. But when we get done it will be more cost effective. We will have less fraud. We will have less abuse because we will have standardized coding. And we will have electronic transfer. And the frustrations that people have in doctors' offices about the huge stacks of bills that they are trying to collect should go away. That is a real step forward.

We hope to save more than the $29.9 billion that we are talking about in this bill with this type of activity.

The most important thing I want people to understand is sometimes we get all wrapped up in fights amongst ourselves. We did not in this legislation. The committees came together, the Members came together, and we worked out a situation that I think in the long run is maybe a better bill than we wrote, is a better bill than other people wrote. The finest solution to this is one that is good for this country, gives people time but moves the system forward to the final completion that we all want.

I want to particularly thank everybody, all the staffs, all the Members who worked so hard to make this work.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Ohio (Mr. HOBSON) for his really outstanding and consistent leadership on this issue.

Mr. MARKEY. Mr. Speaker, I rise in support of the language in the Administrative Simplification Compliance Act, H.R. 3323 which exempts from delay the compliance date for the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule.

In 1996 Congress made a promise to the American people that by February 2001 medical privacy protections would be in place. Despite the efforts of privacy opponents who lobbied this Administration heavily to postpone the effective date of these protections, the final privacy rule went forward in April 2001—a victory for patients, doctors and the quality of our nation's health care. But we're not quite out of the woods yet—the Administration has indicated that certain sections of this rule are to be opened for public comment early next year. It is my hope that this plan will not serve to undermine the strong privacy protections already in place and that the compliance date for these protections will not be postponed.

The date of compliance for these first time, fundamental medical privacy protections is April 2003. While we can all agree that these protections don't go far enough in providing comprehensive privacy for medical records they are a good first step.

I praise Representative HOBSON, the author of H.R. 3323, for including language to preserve the compliance date for the HIPAA privacy protections. Americans have waited far too long for medical privacy and they deserve it as soon possible.

Mr. SHADEGG. Mr. Speaker, I rise to support H.R. 3323, the Administrative Simplification Compliance Act. Mr. Speaker, earlier this year, I introduced legislation, H.R. 1975, that would have greatly assisted health care providers, physicians, health plans, and the states in coming into compliance with the Administrative Simplification provisions that were passed as part of the Health Insurance Portability and Accountability Act (HIPAA). My bill recognized the difficulty that health plans, providers, and states face in updating their computer systems by delaying the HIPAA compliance date to the later of October 16, 2004, or two years after the Secretary finalized all of the Administrative Simplification regulations. Unfortunately, however, there was skepticism as to the merit of any extension.

While the intention of the Administrative Simplification requirements is meritorious—moving from a slothy paper-based health care transaction system to an efficient electronic-based one—it is clear that health plans and providers will not be able to meet the deadlines set forth in regulations that were late in their release. According to a recent survey conducted by Phoenix Health Systems, "industry-wide readiness for the October 16, 2002 transactions deadline is questionable—even unlikely.

Further evidence of the difficulty of meeting the October 16, 2002 deadline for transactions and code sets found in an October 11, 2001 letter signed by the National Governors Association, National Conference of State Legislatures, Council of State Governments, National Association of Counties, National League of Cities, and the U.S. Conference of Mayors which stated "State and local governments will be unable to meet the requirements of HIPAA under the current implementation schedule. Regardless of whether other covered entities—such as hospitals, health plans, providers, and clearinghouse—except to be compliant with HIPAA under the current system, if state and local governments are not ready, HIPAA will not work."

The bill on the floor today represents a compromise. The bill does not contain all of the provisions I would like. It is, however, an improvement over its original form, which contained an onerous user fee on Medicare providers, an idea that has been rejected by the House of Representatives time and time again. In addition, the compliance plans that covered entities will have to submit—something that will get entities to focus on how to come into compliance—will be less burdensome under the new amended bill. I still have concerns about the bill's effect on small providers, but believe that the exceptions we have included are sufficient to not punish small physician practices.

Mr. Speaker, I want to thank Mr. HOBSON, Mr. SAWYER, Chairman TAUZIN, and Chairman THOMAS for their work on this issue.

Mr. DINGELL. Mr. Speaker, H.R. 3323, the "Administrative Simplification Compliance Act" is a responsible compromise. Congressman HOBSON and SAWYER have addressed the concerns of the health care industry while maintaining the integrity of the administrative simplification requirements. H.R. 3323 also reflects the bipartisan input of the committees of jurisdiction, the Committee on Energy and Commerce and the Committee on Ways and Means.

H.R. 3323 delays the implementation of the administrative simplification requirements in

the Health Insurance Portability and Accountability Act of 1996 (HIPAA) by one year. It ensures, however, that those sectors of the health care industry that take advantage of this delay are using the extra year to ready themselves for compliance.

Most importantly, the bill ensures that the one-year delay of administrative simplification does not touch the implementation of the health information privacy requirements in HIPAA, which will go into effect as scheduled.

H.R. 3323 also requires that Medicare claims be submitted electronically, with reasonable exceptions. The Medicare program has paved the way in moving from paper-based claims processing to electronic processing, and this requirement will help Medicare run more smoothly.

Ultimately, the administration simplification requirements in HIPAA will make our health system more efficient. These requirements will result in billions of dollars in savings, thus freeing up more funds to focus on expanding health care coverage and promoting higher quality care. H.R. 3323 reaffirms the importance of these requirements while giving additional time to prepare for their implementation. I ask my colleagues to join me in support of this bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 3323, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. JOHNSON of Connecticut. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MEDICARE REGULATORY AND CONTRACTING REFORM ACT OF 2001

Mrs. JOHNSON of Connecticut. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3391) to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program.

The Clerk read as follows:

H.R. 3391

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

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Regulatory and Contracting Reform Act of 2001''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

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

Sec. 1. Short title; amendments to Social Security Act; table of contents.
Sec. 2. Findings and construction.
Sec. 3. Definitions.

TITLE I—REGULATORY REFORM

Sec. 101. Issuance of regulations.
Sec. 102. Compliance with changes in regulations and policies.
Sec. 103. Reports and studies relating to regulatory reform.

TITLE II—CONTRACTING REFORM

Sec. 201. Increased flexibility in medicare administration.
Sec. 202. Requirements for information security for medicare administrative contractors.

TITLE III—EDUCATION AND OUTREACH

Sec. 301. Provider education and technical assistance.
Sec. 302. Small provider technical assistance demonstration program.
Sec. 303. Medicare Provider Ombudsman; Medicare Beneficiary Ombudsman.
Sec. 304. Beneficiary outreach demonstration program.

TITLE IV—APPEALS AND RECOVERY

Sec. 401. Transfer of responsibility for medicare appeals.
Sec. 402. Process for expedited access to review.
Sec. 403. Revisions to medicare appeals process.
Sec. 404. Prepayment review.
Sec. 405. Recovery of overpayments.
Sec. 406. Provider enrollment process; right of appeal.
Sec. 407. Process for correction of minor errors and omissions on claims without pursuing appeals process.
Sec. 408. Prior determination process for certain items and services; advance beneficiary notices.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Policy development regarding evaluation and management (E & M) documentation guidelines.
Sec. 502. Improvement in oversight of technology and coverage.
Sec. 503. Treatment of hospitals for certain services under medicare secondary payor (MSP) provisions.
Sec. 504. EMTALA improvements.
Sec. 505. Emergency Medical Treatment and Active Labor Act (EMTALA) Technical Advisory Group.
Sec. 506. Authorizing use of arrangements with other hospice programs to provide core hospice services in certain circumstances.
Sec. 507. Application of OSHA bloodborne pathogens standard to certain hospitals.
Sec. 508. One-year delay in lock in procedures for Medicare+Choice plans; change in Medicare+Choice reporting deadlines and annual, coordinated election period for 2002.
Sec. 509. BIPA-related technical amendments and corrections.
Sec. 510. Conforming authority to waive a program exclusion.
Sec. 511. Treatment of certain dental claims.
Sec. 512. Miscellaneous reports, studies, and publication requirements.

SEC. 2. FINDINGS AND CONSTRUCTION.

(a) FINDINGS.—Congress finds the following:

(1) The overwhelming majority of providers of services and suppliers in the United States are law-abiding persons who provide important health care services to patients each day.

(2) The Secretary of Health and Human Services should work to streamline paperwork requirements under the medicare program and communicate clearer instructions to providers of services and suppliers so that they may spend more time caring for patients.

(b) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to compromise or affect existing legal remedies for addressing fraud or abuse, whether it be criminal prosecution, civil enforcement, or administrative remedies, including under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act); or

(2) to prevent or impede the Department of Health and Human Services in any way from its ongoing efforts to eliminate waste, fraud, and abuse in the medicare program.

Furthermore, the consolidation of medicare administrative contracting set forth in this Act does not constitute consolidation of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund or reflect any position on that issue.

SEC. 3. DEFINITIONS.

(a) USE OF TERM SUPPLIER IN MEDICARE.—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (c) the following new subsection:

''Supplier

''(d) The term 'supplier' means, unless the context otherwise requires, a physician or other practitioner, a facility, or other entity (other than a provider of services) that furnishes items or services under this title.''.

(b) OTHER TERMS USED IN ACT.—In this Act:

(1) BIPA.—The term ''BIPA'' means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

TITLE I—REGULATORY REFORM

SEC. 101. ISSUANCE OF REGULATIONS.

(a) CONSOLIDATION OF PROMULGATION TO ONCE A MONTH.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

''(d)(1) Subject to paragraph (2), the Secretary shall issue proposed or final (including interim final) regulations to carry out this title only on one business day of every month.

''(2) The Secretary may issue a proposed or final regulation described in paragraph (1) on

any other day than the day described in paragraph (1) if the Secretary—

''(A) finds that issuance of such regulation on another day is necessary to comply with requirements under law; or

''(B) finds that with respect to that regulation the limitation of issuance on the date described in paragraph (1) is contrary to the public interest.

If the Secretary makes a finding under this paragraph, the Secretary shall include such finding, and brief statement of the reasons for such finding, in the issuance of such regulation.

''(3) The Secretary shall coordinate issuance of new regulations described in paragraph (1) relating to a category of provider of services or suppliers based on an analysis of the collective impact of regulatory changes on that category of providers or suppliers.''.

(2) GAO REPORT ON PUBLICATION OF REGULATIONS ON A QUARTERLY BASIS.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the feasibility of requiring that regulations described in section 1871(d) of the Social Security Act be promulgated on a quarterly basis rather than on a monthly basis.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to regulations promulgated on or after the date that is 30 days after the date of the enactment of this Act.

(b) REGULAR TIMELINE FOR PUBLICATION OF FINAL RULES.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph:

''(3)(A) The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish and publish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation or an interim final regulation.

''(B) Such timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors, but shall not be longer than 3 years except under exceptional circumstances. If the Secretary intends to vary such timeline with respect to the publication of a final regulation, the Secretary shall cause to have published in the Federal Register notice of the different timeline by not later than the timeline previously established with respect to such regulation. Such notice shall include a brief explanation of the justification for such variation.

''(C) In the case of interim final regulations, upon the expiration of the regular timeline established under this paragraph for the publication of a final regulation after opportunity for public comment, the interim final regulation shall not continue in effect unless the Secretary publishes (at the end of the regular timeline and, if applicable, at the end of each succeeding 1-year period) a notice of continuation of the regulation that includes an explanation of why the regular timeline (and any subsequent 1-year extension) was not complied with. If such a notice is published, the regular timeline (or such timeline as previously extended under this paragraph) for publication of the final regulation shall be treated as having been extended for 1 additional year.

''(D) The Secretary shall annually submit to Congress a report that describes the instances in which the Secretary failed to publish a final regulation within the applicable regular timeline under this paragraph and that provides an explanation for such failures.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. The Secretary shall provide for an appropriate transition to take into account the backlog of previously published interim final regulations.

(c) LIMITATIONS ON NEW MATTER IN FINAL REGULATIONS.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

''(4) If the Secretary publishes notice of proposed rulemaking relating to a regulation (including an interim final regulation), insofar as such final regulation includes a provision that is not a logical outgrowth of such notice of proposed rulemaking, that provision shall be treated as a proposed regulation and shall not take effect until there is the further opportunity for public comment and a publication of the provision again as a final regulation.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to final regulations published on or after the date of the enactment of this Act.

SEC. 102. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES.

(a) NO RETROACTIVE APPLICATION OF SUBSTANTIVE CHANGES.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh), as amended by section 101(a), is amended by adding at the end the following new subsection:

''(e)(1)(A) A substantive change in regulations, manual instructions, interpretative rules, statements of policy, or guidelines of general applicability under this title shall not be applied (by extrapolation or otherwise) retroactively to items and services furnished before the effective date of the change, unless the Secretary determines that—

''(i) such retroactive application is necessary to comply with statutory requirements; or

''(ii) failure to apply the change retroactively would be contrary to the public interest.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to substantive changes issued on or after the date of the enactment of this Act.

(b) TIMELINE FOR COMPLIANCE WITH SUBSTANTIVE CHANGES AFTER NOTICE.—

(1) IN GENERAL.—Section 1871(e)(1), as added by subsection (a), is amended by adding at the end the following:

''(B)(i) Except as provided in clause (ii), a substantive change referred to in subparagraph (A) shall not become effective before the end of the 30-day period that begins on the date that the Secretary has issued or published, as the case may be, the substantive change.

''(ii) The Secretary may provide for such a substantive change to take effect on a date that precedes the end of the 30-day period under clause (i) if the Secretary finds that waiver of such 30-day period is necessary to comply with statutory requirements or that the application of such 30-day period is contrary to the public interest. If the Secretary provides for an earlier effective date pursuant to this clause, the Secretary shall include in the issuance or publication of the substantive change a finding described in the first sentence, and a brief statement of the reasons for such finding.

''(C) No action shall be taken against a provider of services or supplier with respect to noncompliance with such a substantive change for items and services furnished before the effective date of such a change.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to compliance actions undertaken on or after the date of the enactment of this Act.

(c) RELIANCE ON GUIDANCE.—

(1) IN GENERAL.—Section 1871(e), as added by subsection (a), is further amended by adding at the end the following new paragraph:

''(2)(A) If—

''(i) a provider of services or supplier follows the written guidance (which may be transmitted electronically) provided by the Secretary or by a medicare contractor (as defined in section 1889(g)) acting within the scope of the contractor's contract authority, with respect to the furnishing of items or services and submission of a claim for benefits for such items or services with respect to such provider or supplier;

''(ii) the Secretary determines that the provider of services or supplier has accurately presented the circumstances relating to such items, services, and claim to the contractor in writing; and

''(iii) the guidance was in error;

the provider of services or supplier shall not be subject to any sanction (including any penalty or requirement for repayment of any amount) if the provider of services or supplier reasonably relied on such guidance.

''(B) Subparagraph (A) shall not be construed as preventing the recoupment or repayment (without any additional penalty) relating to an overpayment insofar as the overpayment was solely the result of a clerical or technical operational error.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act but shall not apply to any sanction for which notice was provided on or before the date of the enactment of this Act.

SEC. 103. REPORTS AND STUDIES RELATING TO REGULATORY REFORM.

(a) GAO STUDY ON ADVISORY OPINION AUTHORITY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the feasibility and appropriateness of establishing in the Secretary authority to provide legally binding advisory opinions on appropriate interpretation and application of regulations to carry out the medicare program under title XVIII of the Social Security Act. Such study shall examine the appropriate timeframe for issuing such advisory opinions, as well as the need for additional staff and funding to provide such opinions.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than January 1, 2003.

(b) REPORT ON LEGAL AND REGULATORY INCONSISTENCIES.—Section 1871 (42 U.S.C. 1395hh), as amended by section 2(a), is amended by adding at the end the following new subsection:

''(f)(1) Not later than 2 years after the date of the enactment of this subsection, and every 2 years thereafter, the Secretary shall submit to Congress a report with respect to the administration of this title and areas of inconsistency or conflict among the various provisions under law and regulation.

''(2) In preparing a report under paragraph (1), the Secretary shall collect—

''(A) information from individuals entitled to benefits under part A or enrolled under

part B, or both, providers of services, and suppliers and from the Medicare Beneficiary Ombudsman and the Medicare Provider Ombudsman with respect to such areas of inconsistency and conflict; and

''(B) information from medicare contractors that tracks the nature of written and telephone inquiries.

''(3) A report under paragraph (1) shall include a description of efforts by the Secretary to reduce such inconsistency or conflicts, and recommendations for legislation or administrative action that the Secretary determines appropriate to further reduce such inconsistency or conflicts.''.

TITLE II—CONTRACTING REFORM

SEC. 201. INCREASED FLEXIBILITY IN MEDICARE ADMINISTRATION.

(a) CONSOLIDATION AND FLEXIBILITY IN MEDICARE ADMINISTRATION.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1874 the following new section:

''CONTRACTS WITH MEDICARE ADMINISTRATIVE CONTRACTORS

''SEC. 1874A. (a) AUTHORITY.—

''(1) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with any eligible entity to serve as a medicare administrative contractor with respect to the performance of any or all of the functions described in paragraph (4) or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other entities).

''(2) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract with respect to the performance of a particular function described in paragraph (4) only if—

''(A) the entity has demonstrated capability to carry out such function;

''(B) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

''(C) the entity has sufficient assets to financially support the performance of such function; and

''(D) the entity meets such other requirements as the Secretary may impose.

''(3) MEDICARE ADMINISTRATIVE CONTRACTOR DEFINED.—For purposes of this title and title XI—

''(A) IN GENERAL.—The term 'medicare administrative contractor' means an agency, organization, or other person with a contract under this section.

''(B) APPROPRIATE MEDICARE ADMINISTRATIVE CONTRACTOR.—With respect to the performance of a particular function in relation to an individual entitled to benefits under part A or enrolled under part B, or both, a specific provider of services or supplier (or class of such providers of services or suppliers), the 'appropriate' medicare administrative contractor is the medicare administrative contractor that has a contract under this section with respect to the performance of that function in relation to that individual, provider of services or supplier or class of provider of services or supplier.

''(4) FUNCTIONS DESCRIBED.—The functions referred to in paragraphs (1) and (2) are payment functions, provider services functions, and functions relating to services furnished to individuals entitled to benefits under part A or enrolled under part B, or both, as follows:

''(A) DETERMINATION OF PAYMENT AMOUNTS.—Determining (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this title to be made to providers of services, suppliers and individuals.

''(B) MAKING PAYMENTS.—Making payments described in subparagraph (A) (including receipt, disbursement, and accounting for funds in making such payments).

''(C) BENEFICIARY EDUCATION AND ASSISTANCE.—Providing education and outreach to individuals entitled to benefits under part A or enrolled under part B, or both, and providing assistance to those individuals with specific issues, concerns or problems.

''(D) PROVIDER CONSULTATIVE SERVICES.—Providing consultative services to institutions, agencies, and other persons to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as providers of services or suppliers.

''(E) COMMUNICATION WITH PROVIDERS.—Communicating to providers of services and suppliers any information or instructions furnished to the medicare administrative contractor by the Secretary, and facilitating communication between such providers and suppliers and the Secretary.

''(F) PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Performing the functions relating to provider education, training, and technical assistance.

''(G) ADDITIONAL FUNCTIONS.—Performing such other functions as are necessary to carry out the purposes of this title.

''(5) RELATIONSHIP TO MIP CONTRACTS.—

''(A) NONDUPLICATION OF DUTIES.—In entering into contracts under this section, the Secretary shall assure that functions of medicare administrative contractors in carrying out activities under parts A and B do not duplicate activities carried out under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

''(B) CONSTRUCTION.—An entity shall not be treated as a medicare administrative contractor merely by reason of having entered into a contract with the Secretary under section 1893.

''(6) APPLICATION OF FEDERAL ACQUISITION REGULATION.—Except to the extent inconsistent with a specific requirement of this title, the Federal Acquisition Regulation applies to contracts under this title.

''(b) CONTRACTING REQUIREMENTS.—

''(1) USE OF COMPETITIVE PROCEDURES.—

''(A) IN GENERAL.—Except as provided in laws with general applicability to Federal acquisition and procurement or in subparagraph (B), the Secretary shall use competitive procedures when entering into contracts with medicare administrative contractors under this section, taking into account performance quality as well as price and other factors.

''(B) RENEWAL OF CONTRACTS.—The Secretary may renew a contract with a medicare administrative contractor under this section from term to term without regard to section 5 of title 41, United States Code, or any other provision of law requiring competition, if the medicare administrative contractor has met or exceeded the performance requirements applicable with respect to the contract and contractor, except that the Secretary shall provide for the application of competitive procedures under such a contract not less frequently than once every five years.

''(C) TRANSFER OF FUNCTIONS.—The Secretary may transfer functions among medicare administrative contractors consistent with the provisions of this paragraph. The Secretary shall ensure that performance quality is considered in such transfers. The Secretary shall provide public notice (whether in the Federal Register or otherwise) of any such transfer (including a description of the functions so transferred, a description of the providers of services and suppliers affected by such transfer, and contact information for the contractors involved).

''(D) INCENTIVES FOR QUALITY.—The Secretary shall provide incentives for medicare administrative contractors to provide quality service and to promote efficiency.

''(2) COMPLIANCE WITH REQUIREMENTS.—No contract under this section shall be entered into with any medicare administrative contractor unless the Secretary finds that such medicare administrative contractor will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, quality of services provided, and other matters as the Secretary finds pertinent.

''(3) PERFORMANCE REQUIREMENTS.—

''(A) DEVELOPMENT OF SPECIFIC PERFORMANCE REQUIREMENTS.—In developing contract performance requirements, the Secretary shall develop performance requirements applicable to functions described in subsection (a)(4).

''(B) CONSULTATION.— In developing such requirements, the Secretary may consult with providers of services and suppliers, organizations representing individuals entitled to benefits under part A or enrolled under part B, or both, and organizations and agencies performing functions necessary to carry out the purposes of this section with respect to such performance requirements.

''(C) INCLUSION IN CONTRACTS.—All contractor performance requirements shall be set forth in the contract between the Secretary and the appropriate medicare administrative contractor. Such performance requirements—

''(i) shall reflect the performance requirements developed under subparagraph (A), but may include additional performance requirements;

''(ii) shall be used for evaluating contractor performance under the contract; and

''(iii) shall be consistent with the written statement of work provided under the contract.

''(4) INFORMATION REQUIREMENTS.—The Secretary shall not enter into a contract with a medicare administrative contractor under this section unless the contractor agrees—

''(A) to furnish to the Secretary such timely information and reports as the Secretary may find necessary in performing his functions under this title; and

''(B) to maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (A) and otherwise to carry out the purposes of this title.

''(5) SURETY BOND.—A contract with a medicare administrative contractor under this section may require the medicare administrative contractor, and any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

''(c) TERMS AND CONDITIONS.—

''(1) IN GENERAL.—A contract with any medicare administrative contractor under

this section may contain such terms and conditions as the Secretary finds necessary or appropriate and may provide for advances of funds to the medicare administrative contractor for the making of payments by it under subsection (a)(4)(B).

''(2) PROHIBITION ON MANDATES FOR CERTAIN DATA COLLECTION.—The Secretary may not require, as a condition of entering into, or renewing, a contract under this section, that the medicare administrative contractor match data obtained other than in its activities under this title with data used in the administration of this title for purposes of identifying situations in which the provisions of section 1862(b) may apply.

''(d) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

''(1) CERTIFYING OFFICER.—No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by the individual under this section.

''(2) DISBURSING OFFICER.—No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by such officer under this section if it was based upon an authorization (which meets the applicable requirements for such internal controls established by the Comptroller General) of a certifying officer designated as provided in paragraph (1) of this subsection.

''(3) LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTOR.—No medicare administrative contractor shall be liable to the United States for a payment by a certifying or disbursing officer unless in connection with such payment or in the supervision of or selection of such officer the medicare administrative contractor acted with gross negligence.

''(4) INDEMNIFICATION BY SECRETARY.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (D), in the case of a medicare administrative contractor (or a person who is a director, officer, or employee of such a contractor or who is engaged by the contractor to participate directly in the claims administration process) who is made a party to any judicial or administrative proceeding arising from or relating directly to the claims administration process under this title, the Secretary may, to the extent the Secretary determines to be appropriate and as specified in the contract with the contractor, indemnify the contractor and such persons.

''(B) CONDITIONS.—The Secretary may not provide indemnification under subparagraph (A) insofar as the liability for such costs arises directly from conduct that is determined by the judicial proceeding or by the Secretary to be criminal in nature, fraudulent, or grossly negligent. If indemnification is provided by the Secretary with respect to a contractor before a determination that such costs arose directly from such conduct, the contractor shall reimburse the Secretary for costs of indemnification.

''(C) SCOPE OF INDEMNIFICATION.—Indemnification by the Secretary under subparagraph (A) may include payment of judgments, settlements (subject to subparagraph (D)), awards, and costs (including reasonable legal expenses).

''(D) WRITTEN APPROVAL FOR SETTLEMENTS.—A contractor or other person described in subparagraph (A) may not propose to negotiate a settlement or compromise of a proceeding described in such subparagraph without the prior written approval of the Secretary to negotiate such settlement or compromise. Any indemnification under subparagraph (A) with respect to amounts paid under a settlement or compromise of a proceeding described in such subparagraph are conditioned upon prior written approval by the Secretary of the final settlement or compromise.

''(E) CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to change any common law immunity that may be available to a medicare administrative contractor or person described in subparagraph (A); or

''(ii) to permit the payment of costs not otherwise allowable, reasonable, or allocable under the Federal Acquisition Regulations.''.

(2) CONSIDERATION OF INCORPORATION OF CURRENT LAW STANDARDS.—In developing contract performance requirements under section 1874A(b) of the Social Security Act, as inserted by paragraph (1), the Secretary shall consider inclusion of the performance standards described in sections 1816(f)(2) of such Act (relating to timely processing of reconsiderations and applications for exemptions) and section 1842(b)(2)(B) of such Act (relating to timely review of determinations and fair hearing requests), as such sections were in effect before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART A''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A), by striking ''agreement under this section'' and inserting ''contract under section 1874A that provides for making payments under this part''.

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking ''An agreement with an agency or organization under this section'' and inserting ''A contract with a medicare administrative contractor under section 1874A with respect to the administration of this part''; and

(B) by striking ''such agency or organization'' and inserting ''such medicare administrative contractor'' each place it appears.

(7) Subsection (l) is repealed.

(c) CONFORMING AMENDMENTS TO SECTION 1842 (RELATING TO CARRIERS).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART B''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B);

(ii) in subparagraph (C), by striking ''carriers'' and inserting ''medicare administrative contractors''; and

(iii) by striking subparagraphs (D) and (E);

(C) in paragraph (3)—

(i) in the matter before subparagraph (A), by striking ''Each such contract shall provide that the carrier'' and inserting ''The Secretary'';

(ii) by striking ''will'' the first place it appears in each of subparagraphs (A), (B), (F), (G), (H), and (L) and inserting ''shall'';

(iii) in subparagraph (B), in the matter before clause (i), by striking ''to the policyholders and subscribers of the carrier'' and inserting ''to the policyholders and subscribers of the medicare administrative contractor'';

(iv) by striking subparagraphs (C), (D), and (E);

(v) in subparagraph (H)—

(I) by striking ''if it makes determinations or payments with respect to physicians' services,''; and

(II) by striking ''carrier'' and inserting ''medicare administrative contractor'';

(vi) by striking subparagraph (I);

(vii) in subparagraph (L), by striking the semicolon and inserting a period;

(viii) in the first sentence, after subparagraph (L), by striking ''and shall contain'' and all that follows through the period; and

(ix) in the seventh sentence, by inserting ''medicare administrative contractor,'' after ''carrier,''; and

(D) by striking paragraph (5);

(E) in paragraph (6)(D)(iv), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(F) in paragraph (7), by striking ''the carrier'' and inserting ''the Secretary'' each place it appears.

(4) Subsection (c) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2), by striking ''contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B),'' and inserting ''contract under section 1874A that provides for making payments under this part'';

(C) in paragraph (3)(A), by striking ''subsection (a)(1)(B)'' and inserting ''section 1874A(a)(3)(B)'';

(D) in paragraph (4), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(E) by striking paragraphs (5) and (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking ''carrier or carriers'' and inserting ''medicare administrative contractor or contractors''.

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking ''Each carrier having an agreement with the Secretary under subsection (a)'' and inserting ''The Secretary''; and

(ii) by striking ''Each such carrier'' and inserting ''The Secretary'';

(B) in paragraph (3)(A)—

(i) by striking ''a carrier having an agreement with the Secretary under subsection (a)'' and inserting ''medicare administrative contractor having a contract under section 1874A that provides for making payments under this part''; and

(ii) by striking ''such carrier'' and inserting ''such contractor'';

(C) in paragraph (3)(B)—

(i) by striking ''a carrier'' and inserting ''a medicare administrative contractor'' each place it appears; and

(ii) by striking ''the carrier'' and inserting ''the contractor'' each place it appears; and

(D) in paragraphs (5)(A) and (5)(B)(iii), by striking ''carriers'' and inserting ''medicare administrative contractors'' each place it appears.

(8) Subsection (l) is amended—

(A) in paragraph (1)(A)(iii), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(B) in paragraph (2), by striking ''carrier'' and inserting ''medicare administrative contractor''.

(9) Subsection (p)(3)(A) is amended by striking ''carrier'' and inserting ''medicare administrative contractor''.

(10) Subsection (q)(1)(A) is amended by striking ''carrier''.

(d) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2003, and the Secretary is authorized to take such steps before such date as may be necessary to implement such amendments on a timely basis.

(B) CONSTRUCTION FOR CURRENT CONTRACTS.—Such amendments shall not apply to contracts in effect before the date specified under subparagraph (A) that continue to retain the terms and conditions in effect on such date (except as otherwise provided under this Act, other than under this section) until such date as the contract is let out for competitive bidding under such amendments.

(C) DEADLINE FOR COMPETITIVE BIDDING.—The Secretary shall provide for the letting by competitive bidding of all contracts for functions of medicare administrative contractors for annual contract periods that begin on or after October 1, 2008.

(D) WAIVER OF PROVIDER NOMINATION PROVISIONS DURING TRANSITION.—During the period beginning on the date of the enactment of this Act and before the date specified under subparagraph (A), the Secretary may enter into new agreements under section 1816 of the Social Security Act (42 U.S.C. 1395h) without regard to any of the provider nomination provisions of such section.

(2) GENERAL TRANSITION RULES.—The Secretary shall take such steps, consistent with paragraph (1)(B) and (1)(C), as are necessary to provide for an appropriate transition from contracts under section 1816 and section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u) to contracts under section 1874A, as added by subsection (a)(1).

(3) AUTHORIZING CONTINUATION OF MIP FUNCTIONS UNDER CURRENT CONTRACTS AND AGREEMENTS AND UNDER ROLLOVER CONTRACTS.—The provisions contained in the exception in section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395ddd(d)(2)) shall continue to apply notwithstanding the amendments made by this section, and any reference in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(e) REFERENCES.—On and after the effective date provided under subsection (d)(1), any reference to a fiscal intermediary or carrier under title XI or XVIII of the Social Security Act (or any regulation, manual instruction, interpretative rule, statement of policy, or guideline issued to carry out such titles) shall be deemed a reference to an appropriate medicare administrative contractor (as provided under section 1874A of the Social Security Act).

(f) REPORTS ON IMPLEMENTATION.—

(1) PLAN FOR IMPLEMENTATION.—By not later than October 1, 2002, the Secretary shall submit a report to Congress and the Comptroller General of the United States that describes the plan for implementation of the amendments made by this section. The Comptroller General shall conduct an evaluation of such plan and shall submit to Congress, not later than 6 months after the date the report is received, a report on such evaluation and shall include in such report such recommendations as the Comptroller General deems appropriate.

(2) STATUS OF IMPLEMENTATION.—The Secretary shall submit a report to Congress not later than October 1, 2006, that describes the status of implementation of such amendments and that includes a description of the following:

(A) The number of contracts that have been competitively bid as of such date.

(B) The distribution of functions among contracts and contractors.

(C) A timeline for complete transition to full competition.

(D) A detailed description of how the Secretary has modified oversight and management of medicare contractors to adapt to full competition.

SEC. 202. REQUIREMENTS FOR INFORMATION SECURITY FOR MEDICARE ADMINISTRATIVE CONTRACTORS.

(a) IN GENERAL.—Section 1874A, as added by section 201(a)(1), is amended by adding at the end the following new subsection:

''(e) REQUIREMENTS FOR INFORMATION SECURITY.—

''(1) DEVELOPMENT OF INFORMATION SECURITY PROGRAM.—A medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall implement a contractor-wide information security program to provide information security for the operation and assets of the contractor with respect to such functions under this title. An information security program under this paragraph shall meet the requirements for information security programs imposed on Federal agencies under section 3534(b)(2) of title 44, United States Code (other than requirements under subparagraphs (B)(ii), (F)(iii), and (F)(iv) of such section).

''(2) INDEPENDENT AUDITS.—

''(A) PERFORMANCE OF ANNUAL EVALUATIONS.—Each year a medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall undergo an evaluation of the information security of the contractor with respect to such functions under this title. The evaluation shall—

''(i) be performed by an entity that meets such requirements for independence as the Inspector General of the Department of Health and Human Services may establish; and

''(ii) test the effectiveness of information security control techniques for an appropriate subset of the contractor's information systems (as defined in section 3502(8) of title 44, United States Code) relating to such functions under this title and an assessment of compliance with the requirements of this subsection and related information security policies, procedures, standards and guidelines.

''(B) DEADLINE FOR INITIAL EVALUATION.—

''(i) NEW CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that has not previously performed the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) as a fiscal intermediary or carrier under section 1816 or 1842, the first independent evaluation conducted pursuant subparagraph (A) shall be completed prior to commencing such functions.

''(ii) OTHER CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that is not described in clause (i), the first independent evaluation conducted pursuant subparagraph (A) shall be completed within 1 year after the date the contractor commences functions referred to in clause (i) under this section.

''(C) REPORTS ON EVALUATIONS.—

''(i) TO THE INSPECTOR GENERAL.—The results of independent evaluations under subparagraph (A) shall be submitted promptly to the Inspector General of the Department of Health and Human Services.

''(ii) TO CONGRESS.—The Inspector General of Department of Health and Human Services shall submit to Congress annual reports on the results of such evaluations.''.

(b) APPLICATION OF REQUIREMENTS TO FISCAL INTERMEDIARIES AND CARRIERS.—

(1) IN GENERAL.—The provisions of section 1874A(e)(2) of the Social Security Act (other than subparagraph (B)), as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(2) DEADLINE FOR INITIAL EVALUATION.—In the case of such a fiscal intermediary or carrier with an agreement or contract under such respective section in effect as of the date of the enactment of this Act, the first evaluation under section 1874A(e)(2)(A) of the Social Security Act (as added by subsection (a)), pursuant to paragraph (1), shall be completed (and a report on the evaluation submitted to the Secretary) by not later than 1 year after such date.

TITLE III—EDUCATION AND OUTREACH

SEC. 301. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.

(a) COORDINATION OF EDUCATION FUNDING.—

(1) IN GENERAL.—The Social Security Act is amended by inserting after section 1888 the following new section:

''PROVIDER EDUCATION AND TECHNICAL ASSISTANCE

''SEC. 1889. (a) COORDINATION OF EDUCATION FUNDING.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (g), including under section 1893) in order to maximize the effectiveness of Federal education efforts for providers of services and suppliers.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) REPORT.—Not later than October 1, 2002, the Secretary shall submit to Congress a report that includes a description and evaluation of the steps taken to coordinate the funding of provider education under section 1889(a) of the Social Security Act, as added by paragraph (1).

(b) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE.—

(1) IN GENERAL.—Section 1874A, as added by section 201(a)(1) and as amended by section 202(a), is amended by adding at the end the following new subsection:

''(f) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE IN PROVIDER EDUCATION AND

OUTREACH.—In order to give medicare administrative contractors an incentive to implement effective education and outreach programs for providers of services and suppliers, the Secretary shall develop and implement a methodology to measure the specific claims payment error rates of such contractors in the processing or reviewing of medicare claims.''.

(2) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(f) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(3) GAO REPORT ON ADEQUACY OF METHODOLOGY.—Not later than October 1, 2002, the Comptroller General of the United States shall submit to Congress and to the Secretary a report on the adequacy of the methodology under section 1874A(f)(1) of the Social Security Act, as added by paragraph (1), and shall include in the report such recommendations as the Comptroller General determines appropriate with respect to the methodology.

(4) REPORT ON USE OF METHODOLOGY IN ASSESSING CONTRACTOR PERFORMANCE.—Not later than October 1, 2002, the Secretary shall submit to Congress a report that describes how the Secretary intends to use such methodology in assessing medicare contractor performance in implementing effective education and outreach programs, including whether to use such methodology as a basis for performance bonuses. The report shall include an analysis of the sources of identified errors and potential changes in systems of contractors and rules of the Secretary that could reduce claims error rates.

(c) PROVISION OF ACCESS TO AND PROMPT RESPONSES FROM MEDICARE ADMINISTRATIVE CONTRACTORS.—

(1) IN GENERAL.—Section 1874A, as added by section 201(a)(1) and as amended by section 202(a) and subsection (b), is further amended by adding at the end the following new subsection:

''(g) COMMUNICATIONS WITH BENEFICIARIES, PROVIDERS OF SERVICES AND SUPPLIERS.—

''(1) COMMUNICATION STRATEGY.—The Secretary shall develop a strategy for communications with individuals entitled to benefits under part A or enrolled under part B, or both, and with providers of services and suppliers under this title.

''(2) RESPONSE TO WRITTEN INQUIRIES.—Each medicare administrative contractor shall, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, provide general written responses (which may be through electronic transmission) in a clear, concise, and accurate manner to inquiries of providers of services, suppliers and individuals entitled to benefits under part A or enrolled under part B, or both, concerning the programs under this title within 45 business days of the date of receipt of such inquiries.

''(3) RESPONSE TO TOLL-FREE LINES.—The Secretary shall ensure that each medicare administrative contractor shall provide, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, a toll-free telephone number at which such individuals, providers of services and suppliers may obtain information regarding billing, coding, claims, coverage, and other appropriate information under this title.

''(4) MONITORING OF CONTRACTOR RESPONSES.—

''(A) IN GENERAL.—Each medicare administrative contractor shall, consistent with standards developed by the Secretary under subparagraph (B)—

''(i) maintain a system for identifying who provides the information referred to in paragraphs (2) and (3); and

''(ii) monitor the accuracy, consistency, and timeliness of the information so provided.

''(B) DEVELOPMENT OF STANDARDS.—

''(i) IN GENERAL.—The Secretary shall establish and make public standards to monitor the accuracy, consistency, and timeliness of the information provided in response to written and telephone inquiries under this subsection. Such standards shall be consistent with the performance requirements established under subsection (b)(3).

''(ii) EVALUATION.—In conducting evaluations of individual medicare administrative contractors, the Secretary shall take into account the results of the monitoring conducted under subparagraph (A) taking into account as performance requirements the standards established under clause (i). The Secretary shall, in consultation with organizations representing providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, establish standards relating to the accuracy, consistency, and timeliness of the information so provided.''.

''(C) DIRECT MONITORING.—Nothing in this paragraph shall be construed as preventing the Secretary from directly monitoring the accuracy, consistency, and timeliness of the information so provided.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 2002.

(3) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(g) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(d) IMPROVED PROVIDER EDUCATION AND TRAINING.—

(1) IN GENERAL.—Section 1889, as added by subsection (a), is amended by adding at the end the following new subsections:

''(b) ENHANCED EDUCATION AND TRAINING.—

''(1) ADDITIONAL RESOURCES.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) $25,000,000 for each of fiscal years 2003 and 2004 and such sums as may be necessary for succeeding fiscal years.

''(2) USE.—The funds made available under paragraph (1) shall be used to increase the conduct by medicare contractors of education and training of providers of services and suppliers regarding billing, coding, and other appropriate items and may also be used to improve the accuracy, consistency, and timeliness of contractor responses.

''(c) TAILORING EDUCATION AND TRAINING ACTIVITIES FOR SMALL PROVIDERS OR SUPPLIERS.—

''(1) IN GENERAL.—Insofar as a medicare contractor conducts education and training activities, it shall tailor such activities to meet the special needs of small providers of services or suppliers (as defined in paragraph (2)).

''(2) SMALL PROVIDER OF SERVICES OR SUPPLIER.—In this subsection, the term 'small provider of services or supplier' means—

''(A) a provider of services with fewer than 25 full-time-equivalent employees; or

''(B) a supplier with fewer than 10 full-time-equivalent employees.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(e) REQUIREMENT TO MAINTAIN INTERNET SITES.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsection (d), is further amended by adding at the end the following new subsection:

''(d) INTERNET SITES; FAQS.—The Secretary, and each medicare contractor insofar as it provides services (including claims processing) for providers of services or suppliers, shall maintain an Internet site which—

''(1) provides answers in an easily accessible format to frequently asked questions, and

''(2) includes other published materials of the contractor,

that relate to providers of services and suppliers under the programs under this title (and title XI insofar as it relates to such programs).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(f) ADDITIONAL PROVIDER EDUCATION PROVISIONS.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsections (d) and (e), is further amended by adding at the end the following new subsections:

''(e) ENCOURAGEMENT OF PARTICIPATION IN EDUCATION PROGRAM ACTIVITIES.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services or suppliers for the purpose of conducting any type of audit or prepayment review.

''(f) CONSTRUCTION.—Nothing in this section or section 1893(g) shall be construed as providing for disclosure by a medicare contractor of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

''(g) DEFINITIONS.—For purposes of this section, the term 'medicare contractor' includes the following:

''(1) A medicare administrative contractor with a contract under section 1874A, including a fiscal intermediary with a contract under section 1816 and a carrier with a contract under section 1842.

''(2) An eligible entity with a contract under section 1893.

Such term does not include, with respect to activities of a specific provider of services or supplier an entity that has no authority under this title or title IX with respect to such activities and such provider of services or supplier.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 302. SMALL PROVIDER TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which technical assistance described in paragraph (2) is made available, upon request and on a voluntary basis, to small providers of services or suppliers in order to improve compliance with the applicable requirements of the programs under medicare program under title XVIII of the Social Security Act (including provisions of title XI of such Act insofar as they relate to such title and are not administered by the Office of the Inspector General of the Department of Health and Human Services).

(2) FORMS OF TECHNICAL ASSISTANCE.—The technical assistance described in this paragraph is—

(A) evaluation and recommendations regarding billing and related systems; and

(B) information and assistance regarding policies and procedures under the medicare program, including coding and reimbursement.

(3) SMALL PROVIDERS OF SERVICES OR SUPPLIERS.—In this section, the term ''small providers of services or suppliers'' means—

(A) a provider of services with fewer than 25 full-time-equivalent employees; or

(B) a supplier with fewer than 10 full-time-equivalent employees.

(b) QUALIFICATION OF CONTRACTORS.—In conducting the demonstration program, the Secretary shall enter into contracts with qualified organizations (such as peer review organizations or entities described in section 1889(g)(2) of the Social Security Act, as inserted by section 5(f)(1)) with appropriate expertise with billing systems of the full range of providers of services and suppliers to provide the technical assistance. In awarding such contracts, the Secretary shall consider any prior investigations of the entity's work by the Inspector General of Department of Health and Human Services or the Comptroller General of the United States.

(c) DESCRIPTION OF TECHNICAL ASSISTANCE.—The technical assistance provided under the demonstration program shall include a direct and in-person examination of billing systems and internal controls of small providers of services or suppliers to determine program compliance and to suggest more efficient or effective means of achieving such compliance.

(d) AVOIDANCE OF RECOVERY ACTIONS FOR PROBLEMS IDENTIFIED AS CORRECTED.—The Secretary shall provide that, absent evidence of fraud and notwithstanding any other provision of law, any errors found in a compliance review for a small provider of services or supplier that participates in the demonstration program shall not be subject to recovery action if the technical assistance personnel under the program determine that—

(1) the problem that is the subject of the compliance review has been corrected to their satisfaction within 30 days of the date of the visit by such personnel to the small provider of services or supplier; and

(2) such problem remains corrected for such period as is appropriate.

The previous sentence applies only to claims filed as part of the demonstration program and lasts only for the duration of such program and only as long as the small provider of services or supplier is a participant in such program.

(e) GAO EVALUATION.—Not later than 2 years after the date of the date the demonstration program is first implemented, the Comptroller General, in consultation with the Inspector General of the Department of Health and Human Services, shall conduct an evaluation of the demonstration program. The evaluation shall include a determination of whether claims error rates are reduced for small providers of services or suppliers who participated in the program and the extent of improper payments made as a result of the demonstration program. The Comptroller General shall submit a report to the Secretary and the Congress on such evaluation and shall include in such report recommendations regarding the continuation or extension of the demonstration program.

(f) FINANCIAL PARTICIPATION BY PROVIDERS.—The provision of technical assistance to a small provider of services or supplier under the demonstration program is conditioned upon the small provider of services or supplier paying an amount estimated (and disclosed in advance of a provider's or supplier's participation in the program) to be equal to 25 percent of the cost of the technical assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the demonstration program—

(1) for fiscal year 2003, $1,000,000, and

(2) for fiscal year 2004, $6,000,000.

SEC. 303. MEDICARE PROVIDER OMBUDSMAN; MEDICARE BENEFICIARY OMBUDSMAN.

(a) MEDICARE PROVIDER OMBUDSMAN.—Section 1868 (42 U.S.C. 1395ee) is amended—

(1) by adding at the end of the heading the following: ''; MEDICARE PROVIDER OMBUDSMAN'';

(2) by inserting ''PRACTICING PHYSICIANS ADVISORY COUNCIL.—(1)'' after ''(a)'';

(3) in paragraph (1), as so redesignated under paragraph (2), by striking ''in this section'' and inserting ''in this subsection'';

(4) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively; and

(5) by adding at the end the following new subsection:

''(b) MEDICARE PROVIDER OMBUDSMAN.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Provider Ombudsman. The Ombudsman shall—

''(1) provide assistance, on a confidential basis, to providers of services and suppliers with respect to complaints, grievances, and requests for information concerning the programs under this title (including provisions of title XI insofar as they relate to this title and are not administered by the Office of the Inspector General of the Department of Health and Human Services) and in the resolution of unclear or conflicting guidance given by the Secretary and medicare contractors to such providers of services and suppliers regarding such programs and provisions and requirements under this title and such provisions; and

''(2) submit recommendations to the Secretary for improvement in the administration of this title and such provisions, including—

''(A) recommendations to respond to recurring patterns of confusion in this title and such provisions (including recommendations regarding suspending imposition of sanctions where there is widespread confusion in program administration), and

''(B) recommendations to provide for an appropriate and consistent response (including not providing for audits) in cases of self-identified overpayments by providers of services and suppliers.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.''.

(b) MEDICARE BENEFICIARY OMBUDSMAN.—Title XVIII is amended by inserting after section 1806 the following new section:

''MEDICARE BENEFICIARY OMBUDSMAN

''SEC. 1807. (a) IN GENERAL.—The Secretary shall appoint within the Department of Health and Human Services a Medicare Beneficiary Ombudsman who shall have expertise and experience in the fields of health care and education of (and assistance to) individuals entitled to benefits under this title.

''(b) DUTIES.—The Medicare Beneficiary Ombudsman shall—

''(1) receive complaints, grievances, and requests for information submitted by individuals entitled to benefits under part A or enrolled under part B, or both, with respect to any aspect of the medicare program;

''(2) provide assistance with respect to complaints, grievances, and requests referred to in paragraph (1), including—

''(A) assistance in collecting relevant information for such individuals, to seek an appeal of a decision or determination made by a fiscal intermediary, carrier, Medicare+Choice organization, or the Secretary; and

''(B) assistance to such individuals with any problems arising from disenrollment from a Medicare+Choice plan under part C; and

''(3) submit annual reports to Congress and the Secretary that describe the activities of the Office and that include such recommendations for improvement in the administration of this title as the Ombudsman determines appropriate.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.

''(c) WORKING WITH HEALTH INSURANCE COUNSELING PROGRAMS.—To the extent possible, the Ombudsman shall work with health insurance counseling programs (receiving funding under section 4360 of Omnibus Budget Reconciliation Act of 1990) to facilitate the provision of information to individuals entitled to benefits under part A or enrolled under part B, or both regarding Medicare+Choice plans and changes to those plans. Nothing in this subsection shall preclude further collaboration between the Ombudsman and such programs.''.

(c) DEADLINE FOR APPOINTMENT.—The Secretary shall appoint the Medicare Provider Ombudsman and the Medicare Beneficiary Ombudsman, under the amendments made by subsections (a) and (b), respectively, by not later than 1 year after the date of the enactment of this Act.

(d) FUNDING.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to carry out the provisions of subsection (b) of section 1868 of the Social Security Act (relating to the Medicare Provider Ombudsman), as added by subsection (a)(5) and section 1807 of such Act (relating to the Medicare Beneficiary Ombudsman), as added by subsection (b), such sums as are necessary for fiscal year 2002 and each succeeding fiscal year.

(e) USE OF CENTRAL, TOLL-FREE NUMBER (1-800-MEDICARE).—

(1) PHONE TRIAGE SYSTEM; LISTING IN MEDICARE HANDBOOK INSTEAD OF OTHER TOLL-FREE

NUMBERS.—Section 1804(b) (42 U.S.C. 1395b–2(b)) is amended by adding at the end the following: ''The Secretary shall provide, through the toll-free number 1-800-MEDICARE, for a means by which individuals seeking information about, or assistance with, such programs who phone such toll-free number are transferred (without charge) to appropriate entities for the provision of such information or assistance. Such toll-free number shall be the toll-free number listed for general information and assistance in the annual notice under subsection (a) instead of the listing of numbers of individual contractors.''.

(2) MONITORING ACCURACY.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study to monitor the accuracy and consistency of information provided to individuals entitled to benefits under part A or enrolled under part B, or both, through the toll-free number 1-800-MEDICARE, including an assessment of whether the information provided is sufficient to answer questions of such individuals. In conducting the study, the Comptroller General shall examine the education and training of the individuals providing information through such number.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subparagraph (A).

SEC. 304. BENEFICIARY OUTREACH DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which medicare specialists employed by the Department of Health and Human Services provide advice and assistance to individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both, regarding the medicare program at the location of existing local offices of the Social Security Administration.

(b) LOCATIONS.—

(1) IN GENERAL.—The demonstration program shall be conducted in at least 6 offices or areas. Subject to paragraph (2), in selecting such offices and areas, the Secretary shall provide preference for offices with a high volume of visits by individuals referred to in subsection (a).

(2) ASSISTANCE FOR RURAL BENEFICIARIES.—The Secretary shall provide for the selection of at least 2 rural areas to participate in the demonstration program. In conducting the demonstration program in such rural areas, the Secretary shall provide for medicare specialists to travel among local offices in a rural area on a scheduled basis.

(c) DURATION.—The demonstration program shall be conducted over a 3-year period.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—

(A) utilization of, and satisfaction of those individuals referred to in subsection (a) with, the assistance provided under the program; and

(B) the cost-effectiveness of providing beneficiary assistance through out-stationing medicare specialists at local offices of the Social Security Administration.

(2) REPORT.—The Secretary shall submit to Congress a report on such evaluation and shall include in such report recommendations regarding the feasibility of permanently out-stationing medicare specialists at local offices of the Social Security Administration.

TITLE IV—APPEALS AND RECOVERY

SEC. 401. TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS.

(a) TRANSITION PLAN.—

(1) IN GENERAL.—Not later than October 1, 2002, the Commissioner of Social Security and the Secretary shall develop and transmit to Congress and the Comptroller General of the United States a plan under which the functions of administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions in title XI of such Act) are transferred from the responsibility of the Commissioner and the Social Security Administration to the Secretary and the Department of Health and Human Services.

(2) GAO EVALUATION.—The Comptroller General of the United States shall evaluate the plan and, not later than April 1, 2003, shall submit to Congress a report on such evaluation.

(b) TRANSFER OF ADJUDICATION AUTHORITY.—

(1) IN GENERAL.—Not earlier than July 1, 2003, and not later than October 1, 2003, the Commissioner of Social Security and the Secretary shall implement the transition plan under subsection (a) and transfer the administrative law judge functions described in such subsection from the Social Security Administration to the Secretary.

(2) ASSURING INDEPENDENCE OF JUDGES.—The Secretary shall assure the independence of administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Centers for Medicare & Medicaid Services and its contractors.

(3) GEOGRAPHIC DISTRIBUTION.—The Secretary shall provide for an appropriate geographic distribution of administrative law judges performing the administrative law judge functions transferred under paragraph (1) throughout the United States to ensure timely access to such judges.

(4) HIRING AUTHORITY.—Subject to the amounts provided in advance in appropriations Act, the Secretary shall have authority to hire administrative law judges to hear such cases, giving priority to those judges with prior experience in handling medicare appeals and in a manner consistent with paragraph (3), and to hire support staff for such judges.

(5) FINANCING.—Amounts payable under law to the Commissioner for administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund shall become payable to the Secretary for the functions so transferred.

(6) SHARED RESOURCES.—The Secretary shall enter into such arrangements with the Commissioner as may be appropriate with respect to transferred functions of administrative law judges to share office space, support staff, and other resources, with appropriate reimbursement from the Trust Funds described in paragraph (5).

(c) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to ensure timely action on appeals before administrative law judges and the Departmental Appeals Board consistent with section 1869 of the Social Security Act (as amended by section 521 of BIPA, 114 Stat. 2763A–534), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such sums as are necessary for fiscal year 2003 and each subsequent fiscal year to—

(1) increase the number of administrative law judges (and their staffs) under subsection (b)(4);

(2) improve education and training opportunities for administrative law judges (and their staffs); and

(3) increase the staff of the Departmental Appeals Board.

(d) CONFORMING AMENDMENT.—Section 1869(f)(2)(A)(i) (42 U.S.C. 1395ff(f)(2)(A)(i)), as added by section 522(a) of BIPA (114 Stat. 2763A–543), is amended by striking ''of the Social Security Administration''.

SEC. 402. PROCESS FOR EXPEDITED ACCESS TO REVIEW.

(a) EXPEDITED ACCESS TO JUDICIAL REVIEW.—Section 1869(b) (42 U.S.C. 1395ff(b)) as amended by BIPA, is amended—

(1) in paragraph (1)(A), by inserting '', subject to paragraph (2),'' before ''to judicial review of the Secretary's final decision'';

(2) in paragraph (1)(F)—

(A) by striking clause (ii);

(B) by striking ''PROCEEDING'' and all that follows through ''DETERMINATION'' and inserting ''DETERMINATIONS AND RECONSIDERATIONS''; and

(C) by redesignating subclauses (I) and (II) as clauses (i) and (ii) and by moving the indentation of such subclauses (and the matter that follows) 2 ems to the left; and

(3) by adding at the end the following new paragraph:

''(2) EXPEDITED ACCESS TO JUDICIAL REVIEW.—

''(A) IN GENERAL.—The Secretary shall establish a process under which a provider of services or supplier that furnishes an item or service or an individual entitled to benefits under part A or enrolled under part B, or both, who has filed an appeal under paragraph (1) may obtain access to judicial review when a review panel (described in subparagraph (D)), on its own motion or at the request of the appellant, determines that no entity in the administrative appeals process has the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to a question of law or regulation in a case of an appeal.

''(B) PROMPT DETERMINATIONS.—If, after or coincident with appropriately filing a request for an administrative hearing, the appellant requests a determination by the appropriate review panel that no review panel has the authority to decide the question of law or regulations relevant to the matters in controversy and that there is no material issue of fact in dispute and if such request is accompanied by the documents and materials as the appropriate review panel shall require for purposes of making such determination, such review panel shall make a determination on the request in writing within 60 days after the date such review panel receives the request and such accompanying documents and materials. Such a determination by such review panel shall be considered a final decision and not subject to review by the Secretary.

''(C) ACCESS TO JUDICIAL REVIEW.—

''(i) IN GENERAL.—If the appropriate review panel—

''(I) determines that there are no material issues of fact in dispute and that the only issue is one of law or regulation that no review panel has the authority to decide; or

''(II) fails to make such determination within the period provided under subparagraph (B);

then the appellant may bring a civil action as described in this subparagraph.

''(ii) DEADLINE FOR FILING.—Such action shall be filed, in the case described in—

''(I) clause (i)(I), within 60 days of date of the determination described in such subparagraph; or

''(II) clause (i)(II), within 60 days of the end of the period provided under subparagraph (B) for the determination.

''(iii) VENUE.—Such action shall be brought in the district court of the United States for the judicial district in which the appellant is located (or, in the case of an action brought jointly by more than one applicant, the judicial district in which the greatest number of applicants are located) or in the district court for the District of Columbia.

''(iv) INTEREST ON AMOUNTS IN CONTROVERSY.—Where a provider of services or supplier seeks judicial review pursuant to this paragraph, the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 60-day period as determined pursuant to clause (ii) and equal to the rate of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund and by the Federal Supplementary Medical Insurance Trust Fund for the month in which the civil action authorized under this paragraph is commenced, to be awarded by the reviewing court in favor of the prevailing party. No interest awarded pursuant to the preceding sentence shall be deemed income or cost for the purposes of determining reimbursement due providers of services or suppliers under this Act.

''(D) REVIEW PANELS.—For purposes of this subsection, a 'review panel' is a panel consisting of 3 members (who shall be administrative law judges, members of the Departmental Appeals Board, or qualified individuals associated with a qualified independent contractor (as defined in subsection (c)(2)) or with another independent entity) designated by the Secretary for purposes of making determinations under this paragraph.''.

(b) APPLICATION TO PROVIDER AGREEMENT DETERMINATIONS.—Section 1866(h)(1) (42 U.S.C. 1395cc(h)(1)) is amended—

(1) by inserting ''(A)'' after ''(h)(1)''; and

(2) by adding at the end the following new subparagraph:

''(B) An institution or agency described in subparagraph (A) that has filed for a hearing under subparagraph (A) shall have expedited access to judicial review under this subparagraph in the same manner as providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, may obtain expedited access to judicial review under the process established under section 1869(b)(2). Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1819 during the pendency of an appeal under this subparagraph.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appeals filed on or after October 1, 2002.

(d) EXPEDITED REVIEW OF CERTAIN PROVIDER AGREEMENT DETERMINATIONS.—

(1) TERMINATION AND CERTAIN OTHER IMMEDIATE REMEDIES.—The Secretary shall develop and implement a process to expedite proceedings under sections 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)) in which the remedy of termination of participation, or a remedy described in clause (i) or (iii) of section 1819(h)(2)(B) of such Act (42 U.S.C. 1395i–3(h)(2)(B)) which is applied on an immediate basis, has been imposed. Under such process priority shall be provided in cases of termination.

(2) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to reduce by 50 percent the average time for administrative determinations on appeals under section 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) to the Secretary such additional sums for fiscal year 2003 and each subsequent fiscal year as may be necessary. The purposes for which such amounts are available include increasing the number of administrative law judges (and their staffs) and the appellate level staff at the Departmental Appeals Board of the Department of Health and Human Services and educating such judges and staffs on long-term care issues.

SEC. 403. REVISIONS TO MEDICARE APPEALS PROCESS.

(a) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)), as amended by BIPA and as amended by section 402(a), is further amended by adding at the end the following new paragraph:

''(3) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE BY PROVIDERS.—A provider of services or supplier may not introduce evidence in any appeal under this section that was not presented at the reconsideration conducted by the qualified independent contractor under subsection (c), unless there is good cause which precluded the introduction of such evidence at or before that reconsideration.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2002.

(b) USE OF PATIENTS' MEDICAL RECORDS.—Section 1869(c)(3)(B)(i) (42 U.S.C. 1395ff(c)(3)(B)(i)), as amended by BIPA, is amended by inserting ''(including the medical records of the individual involved)'' after ''clinical experience''.

(c) NOTICE REQUIREMENTS FOR MEDICARE APPEALS.—

(1) INITIAL DETERMINATIONS AND REDETERMINATIONS.—Section 1869(a) (42 U.S.C. 1395ff(a)), as amended by BIPA, is amended by adding at the end the following new paragraph:

''(4) REQUIREMENTS OF NOTICE OF DETERMINATIONS AND REDETERMINATIONS.—A written notice of a determination on an initial determination or on a redetermination, insofar as such determination or redetermination results in a denial of a claim for benefits, shall include—

''(A) the specific reasons for the determination, including—

''(i) upon request, the provision of the policy, manual, or regulation used in making the determination; and

''(ii) as appropriate in the case of a redetermination, a summary of the clinical or scientific evidence used in making the determination;

''(B) the procedures for obtaining additional information concerning the determination or redetermination; and

''(C) notification of the right to seek a redetermination or otherwise appeal the determination and instructions on how to initiate such a redetermination or appeal under this section.

The written notice on a redetermination shall be provided in printed form and written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both.''.

(2) RECONSIDERATIONS.—Section 1869(c)(3)(E) (42 U.S.C. 1395ff(c)(3)(E)), as amended by BIPA, is amended—

(A) by inserting ''be written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include (to the extent appropriate)'' after ''in writing, ''; and

(B) by inserting ''and a notification of the right to appeal such determination and instructions on how to initiate such appeal under this section'' after ''such decision, ''.

(3) APPEALS.—Section 1869(d) (42 U.S.C. 1395ff(d)), as amended by BIPA, is amended—

(A) in the heading, by inserting ''; NOTICE'' after ''SECRETARY''; and

(B) by adding at the end the following new paragraph:

''(4) NOTICE.—Notice of the decision of an administrative law judge shall be in writing in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include—

''(A) the specific reasons for the determination (including, to the extent appropriate, a summary of the clinical or scientific evidence used in making the determination);

''(B) the procedures for obtaining additional information concerning the decision; and

''(C) notification of the right to appeal the decision and instructions on how to initiate such an appeal under this section.''.

(4) SUBMISSION OF RECORD FOR APPEAL.—Section 1869(c)(3)(J)(i) (42 U.S.C. 1395ff(c)(3)(J)(i)) by striking ''prepare'' and inserting ''submit'' and by striking ''with respect to'' and all that follows through ''and relevant policies''.

(d) QUALIFIED INDEPENDENT CONTRACTORS.—

(1) ELIGIBILITY REQUIREMENTS OF QUALIFIED INDEPENDENT CONTRACTORS.—Section 1869(c)(3) (42 U.S.C. 1395ff(c)(3)), as amended by BIPA, is amended—

(A) in subparagraph (A), by striking ''sufficient training and expertise in medical science and legal matters'' and inserting ''sufficient medical, legal, and other expertise (including knowledge of the program under this title) and sufficient staffing''; and

(B) by adding at the end the following new subparagraph:

''(K) INDEPENDENCE REQUIREMENTS.—

''(i) IN GENERAL.—Subject to clause (ii), a qualified independent contractor shall not conduct any activities in a case unless the entity—

''(I) is not a related party (as defined in subsection (g)(5));

''(II) does not have a material familial, financial, or professional relationship with such a party in relation to such case; and

''(III) does not otherwise have a conflict of interest with such a party.

''(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified independent contractor of compensation from the Secretary for the conduct of activities under this section if the compensation is provided consistent with clause (iii).

''(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by the Secretary to a qualified independent contractor in connection with reviews under this section shall not be contingent on any decision rendered by the contractor or by any reviewing professional.''.

(2) ELIGIBILITY REQUIREMENTS FOR REVIEWERS.—Section 1869 (42 U.S.C. 1395ff), as amended by BIPA, is amended—

(A) by amending subsection (c)(3)(D) to read as follows:

''(D) QUALIFICATIONS FOR REVIEWERS.—The requirements of subsection (g) shall be met (relating to qualifications of reviewing professionals).''; and

(B) by adding at the end the following new subsection:

''(g) QUALIFICATIONS OF REVIEWERS.—

''(1) IN GENERAL.—In reviewing determinations under this section, a qualified independent contractor shall assure that—

''(A) each individual conducting a review shall meet the qualifications of paragraph (2);

''(B) compensation provided by the contractor to each such reviewer is consistent with paragraph (3); and

''(C) in the case of a review by a panel described in subsection (c)(3)(B) composed of physicians or other health care professionals (each in this subsection referred to as a 'reviewing professional'), each reviewing professional meets the qualifications described in paragraph (4) and, where a claim is regarding the furnishing of treatment by a physician (allopathic or osteopathic) or the provision of items or services by a physician (allopathic or osteopathic), each reviewing professional shall be a physician (allopathic or osteopathic).

''(2) INDEPENDENCE.—

''(A) IN GENERAL.—Subject to subparagraph (B), each individual conducting a review in a case shall—

''(i) not be a related party (as defined in paragraph (5));

''(ii) not have a material familial, financial, or professional relationship with such a party in the case under review; and

''(iii) not otherwise have a conflict of interest with such a party.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit an individual, solely on the basis of a participation agreement with a fiscal intermediary, carrier, or other contractor, from serving as a reviewing professional if—

''(I) the individual is not involved in the provision of items or services in the case under review;

''(II) the fact of such an agreement is disclosed to the Secretary and the individual entitled to benefits under part A or enrolled under part B, or both, (or authorized representative) and neither party objects; and

''(III) the individual is not an employee of the intermediary, carrier, or contractor and does not provide services exclusively or primarily to or on behalf of such intermediary, carrier, or contractor;

''(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as a reviewer merely on the basis of having such staff privileges if the existence of such privileges is disclosed to the Secretary and such individual (or authorized representative), and neither party objects; or

''(iii) prohibit receipt of compensation by a reviewing professional from a contractor if the compensation is provided consistent with paragraph (3).

For purposes of this paragraph, the term 'participation agreement' means an agreement relating to the provision of health care services by the individual and does not include the provision of services as a reviewer under this subsection.

''(3) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified independent contractor to a reviewer in connection with a review under this section shall not be contingent on the decision rendered by the reviewer.

''(4) LICENSURE AND EXPERTISE.—Each reviewing professional shall be—

''(A) a physician (allopathic or osteopathic) who is appropriately credentialed or licensed in one or more States to deliver health care services and has medical expertise in the field of practice that is appropriate for the items or services at issue; or

''(B) a health care professional who is legally authorized in one or more States (in accordance with State law or the State regulatory mechanism provided by State law) to furnish the health care items or services at issue and has medical expertise in the field of practice that is appropriate for such items or services.

''(5) RELATED PARTY DEFINED.—For purposes of this section, the term 'related party' means, with respect to a case under this title involving a specific individual entitled to benefits under part A or enrolled under part B, or both, any of the following:

''(A) The Secretary, the medicare administrative contractor involved, or any fiduciary, officer, director, or employee of the Department of Health and Human Services, or of such contractor.

''(B) The individual (or authorized representative).

''(C) The health care professional that provides the items or services involved in the case.

''(D) The institution at which the items or services (or treatment) involved in the case are provided.

''(E) The manufacturer of any drug or other item that is included in the items or services involved in the case.

''(F) Any other party determined under any regulations to have a substantial interest in the case involved.''.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall be effective as if included in the enactment of the respective provisions of subtitle C of title V of BIPA, (114 Stat. 2763A–534).

(4) TRANSITION.—In applying section 1869(g) of the Social Security Act (as added by paragraph (2)), any reference to a medicare administrative contractor shall be deemed to include a reference to a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and a carrier under section 1842 of such Act (42 U.S.C. 1395u).

SEC. 404. PREPAYMENT REVIEW.

(a) IN GENERAL.—Section 1874A, as added by section 201(a)(1) and as amended by sections 202(b), 301(b)(1), and 301(c)(1), is further amended by adding at the end the following new subsection:

''(h) CONDUCT OF PREPAYMENT REVIEW.—

''(1) CONDUCT OF RANDOM PREPAYMENT REVIEW.—

''(A) IN GENERAL.—A medicare administrative contractor may conduct random prepayment review only to develop a contractor-wide or program-wide claims payment error rates or under such additional circumstances as may be provided under regulations, developed in consultation with providers of services and suppliers.

''(B) USE OF STANDARD PROTOCOLS WHEN CONDUCTING PREPAYMENT REVIEWS.—When a medicare administrative contractor conducts a random prepayment review, the contractor may conduct such review only in accordance with a standard protocol for random prepayment audits developed by the Secretary.

''(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the denial of payments for claims actually reviewed under a random prepayment review.

''(D) RANDOM PREPAYMENT REVIEW.—For purposes of this subsection, the term 'random prepayment review' means a demand for the production of records or documentation absent cause with respect to a claim.

''(2) LIMITATIONS ON NON-RANDOM PREPAYMENT REVIEW.—

''(A) LIMITATIONS ON INITIATION OF NON-RANDOM PREPAYMENT REVIEW.—A medicare administrative contractor may not initiate non-random prepayment review of a provider of services or supplier based on the initial identification by that provider of services or supplier of an improper billing practice unless there is a likelihood of sustained or high level of payment error (as defined in subsection (i)(3)(A)).

''(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination, including termination dates, of non-random prepayment review. Such regulations may vary such a termination date based upon the differences in the circumstances triggering prepayment review.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) DEADLINE FOR PROMULGATION OF CERTAIN REGULATIONS.—The Secretary shall first issue regulations under section 1874A(h) of the Social Security Act, as added by subsection (a), by not later than 1 year after the date of the enactment of this Act.

(3) APPLICATION OF STANDARD PROTOCOLS FOR RANDOM PREPAYMENT REVIEW.—Section 1874A(h)(1)(B) of the Social Security Act, as added by subsection (a), shall apply to random prepayment reviews conducted on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary shall specify.

(c) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

SEC. 405. RECOVERY OF OVERPAYMENTS.

(a) IN GENERAL.—Section 1893 (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsection:

''(f) RECOVERY OF OVERPAYMENTS.—

''(1) USE OF REPAYMENT PLANS.—

''(A) IN GENERAL.—If the repayment, within 30 days by a provider of services or supplier, of an overpayment under this title would constitute a hardship (as defined in subparagraph (B)), subject to subparagraph (C), upon request of the provider of services or supplier the Secretary shall enter into a plan with the provider of services or supplier for the repayment (through offset or otherwise) of such overpayment over a period of at least 6 months but not longer than 3 years (or not longer than 5 years in the case of extreme hardship, as determined by the Secretary). Interest shall accrue on the balance through the period of repayment. Such plan shall meet terms and conditions determined to be appropriate by the Secretary.

''(B) HARDSHIP.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the repayment of an overpayment (or overpayments) within 30 days is deemed to constitute a hardship if—

''(I) in the case of a provider of services that files cost reports, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services for the cost reporting period covered by the most recently submitted cost report; or

''(II) in the case of another provider of services or supplier, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services or supplier for the previous calendar year.

''(ii) RULE OF APPLICATION.—The Secretary shall establish rules for the application of this subparagraph in the case of a provider of services or supplier that was not paid under this title during the previous year or was paid under this title only during a portion of that year.

''(iii) TREATMENT OF PREVIOUS OVERPAYMENTS.—If a provider of services or supplier has entered into a repayment plan under subparagraph (A) with respect to a specific overpayment amount, such payment amount under the repayment plan shall not be taken into account under clause (i) with respect to subsequent overpayment amounts.

''(C) EXCEPTIONS.—Subparagraph (A) shall not apply if—

''(i) the Secretary has reason to suspect that the provider of services or supplier may file for bankruptcy or otherwise cease to do business or discontinue participation in the program under this title; or

''(ii) there is an indication of fraud or abuse committed against the program.

''(D) IMMEDIATE COLLECTION IF VIOLATION OF REPAYMENT PLAN.—If a provider of services or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total balance outstanding (including applicable interest) under the repayment plan.

''(E) RELATION TO NO FAULT PROVISION.—Nothing in this paragraph shall be construed as affecting the application of section 1870(c) (relating to no adjustment in the cases of certain overpayments).

''(2) LIMITATION ON RECOUPMENT.—

''(A) IN GENERAL.—In the case of a provider of services or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration by a qualified independent contractor on such determination under section 1869(b)(1), the Secretary may not take any action (or authorize any other person, including any medicare contractor, as defined in subparagraph (C) to recoup the overpayment until the date the decision on the reconsideration has been rendered. If the provisions of section 1869(b)(1) (providing for such a reconsideration by a qualified independent contractor) are not in effect, in applying the previous sentence any reference to such a reconsideration shall be treated as a reference to a redetermination by the fiscal intermediary or carrier involved.

''(B) COLLECTION WITH INTEREST.—Insofar as the determination on such appeal is against the provider of services or supplier, interest on the overpayment shall accrue on and after the date of the original notice of overpayment. Insofar as such determination against the provider of services or supplier is later reversed, the Secretary shall provide for repayment of the amount recouped plus interest at the same rate as would apply under the previous sentence for the period in which the amount was recouped.

''(C) MEDICARE CONTRACTOR DEFINED.—For purposes of this subsection, the term 'medicare contractor' has the meaning given such term in section 1889(g).

''(3) LIMITATION ON USE OF EXTRAPOLATION.—A medicare contractor may not use extrapolation to determine overpayment amounts to be recovered by recoupment, offset, or otherwise unless—

''(A) there is a sustained or high level of payment error (as defined by the Secretary by regulation); or

''(B) documented educational intervention has failed to correct the payment error (as determined by the Secretary).

''(4) PROVISION OF SUPPORTING DOCUMENTATION.—In the case of a provider of services or supplier with respect to which amounts were previously overpaid, a medicare contractor may request the periodic production of records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

''(5) CONSENT SETTLEMENT REFORMS.—

''(A) IN GENERAL.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to settle a projected overpayment.

''(B) OPPORTUNITY TO SUBMIT ADDITIONAL INFORMATION BEFORE CONSENT SETTLEMENT OFFER.—Before offering a provider of services or supplier a consent settlement, the Secretary shall—

''(i) communicate to the provider of services or supplier—

''(I) that, based on a review of the medical records requested by the Secretary, a preliminary evaluation of those records indicates that there would be an overpayment;

''(II) the nature of the problems identified in such evaluation; and

''(III) the steps that the provider of services or supplier should take to address the problems; and

''(ii) provide for a 45-day period during which the provider of services or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

''(C) CONSENT SETTLEMENT OFFER.—The Secretary shall review any additional information furnished by the provider of services or supplier under subparagraph (B)(ii). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

''(i) shall provide notice of such determination to the provider of services or supplier, including an explanation of the reason for such determination; and

''(ii) in order to resolve the overpayment, may offer the provider of services or supplier—

''(I) the opportunity for a statistically valid random sample; or

''(II) a consent settlement.

The opportunity provided under clause (ii)(I) does not waive any appeal rights with respect to the alleged overpayment involved.

''(D) CONSENT SETTLEMENT DEFINED.—For purposes of this paragraph, the term 'consent settlement' means an agreement between the Secretary and a provider of services or supplier whereby both parties agree to settle a projected overpayment based on less than a statistically valid sample of claims and the provider of services or supplier agrees not to appeal the claims involved.

''(6) NOTICE OF OVER-UTILIZATION OF CODES.—The Secretary shall establish, in consultation with organizations representing the classes of providers of services and suppliers, a process under which the Secretary provides for notice to classes of providers of services and suppliers served by the contractor in cases in which the contractor has identified that particular billing codes may be overutilized by that class of providers of services or suppliers under the programs under this title (or provisions of title XI insofar as they relate to such programs).

''(7) PAYMENT AUDITS.—

''(A) WRITTEN NOTICE FOR POST-PAYMENT AUDITS.—Subject to subparagraph (C), if a medicare contractor decides to conduct a post-payment audit of a provider of services or supplier under this title, the contractor shall provide the provider of services or supplier with written notice (which may be in electronic form) of the intent to conduct such an audit.

''(B) EXPLANATION OF FINDINGS FOR ALL AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services or supplier under this title, the contractor shall—

''(i) give the provider of services or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services or supplier and permits the development of an appropriate corrective action plan;

''(ii) inform the provider of services or supplier of the appeal rights under this title as well as consent settlement options (which are at the discretion of the Secretary);

''(iii) give the provider of services or supplier an opportunity to provide additional information to the contractor; and

''(iv) take into account information provided, on a timely basis, by the provider of services or supplier under clause (iii).

''(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply if the provision of notice or findings would compromise pending law enforcement activities, whether civil or criminal, or reveal findings of law enforcement-related audits.

''(8) STANDARD METHODOLOGY FOR PROBE SAMPLING.—The Secretary shall establish a standard methodology for medicare contractors to use in selecting a sample of claims for review in the case of an abnormal billing pattern.''.

(b) EFFECTIVE DATES AND DEADLINES.—

(1) USE OF REPAYMENT PLANS.—Section 1893(f)(1) of the Social Security Act, as added by subsection (a), shall apply to requests for repayment plans made after the date of the enactment of this Act.

(2) LIMITATION ON RECOUPMENT.—Section 1893(f)(2) of the Social Security Act, as added by subsection (a), shall apply to actions taken after the date of the enactment of this Act.

(3) USE OF EXTRAPOLATION.—Section 1893(f)(3) of the Social Security Act, as added by subsection (a), shall apply to statistically valid random samples initiated after the date that is 1 year after the date of the enactment of this Act.

(4) PROVISION OF SUPPORTING DOCUMENTATION.—Section 1893(f)(4) of the Social Security Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

(5) CONSENT SETTLEMENT.—Section 1893(f)(5) of the Social Security Act, as added by subsection (a), shall apply to consent settlements entered into after the date of the enactment of this Act.

(6) NOTICE OF OVERUTILIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish the process for notice of overutilization of billing codes under section 1893A(f)(6) of the Social Security Act, as added by subsection (a).

(7) PAYMENT AUDITS.—Section 1893A(f)(7) of the Social Security Act, as added by subsection (a), shall apply to audits initiated after the date of the enactment of this Act.

(8) STANDARD FOR ABNORMAL BILLING PATTERNS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish a standard methodology for selection of sample claims for abnormal billing patterns under section 1893(f)(8) of the Social Security Act, as added by subsection (a).

SEC. 406. PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) by adding at the end of the heading the following: ''; ENROLLMENT PROCESSES''; and

(2) by adding at the end the following new subsection:

''(j) ENROLLMENT PROCESS FOR PROVIDERS OF SERVICES AND SUPPLIERS.—

''(1) ENROLLMENT PROCESS.—

''(A) IN GENERAL.—The Secretary shall establish by regulation a process for the enrollment of providers of services and suppliers under this title.

''(B) DEADLINES.—The Secretary shall establish by regulation procedures under which there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment). The Secretary shall monitor the performance of medicare administrative contractors in meeting the deadlines established under this subparagraph.

''(C) CONSULTATION BEFORE CHANGING PROVIDER ENROLLMENT FORMS.—The Secretary shall consult with providers of services and suppliers before making changes in the provider enrollment forms required of such providers and suppliers to be eligible to submit claims for which payment may be made under this title.

''(2) HEARING RIGHTS IN CASES OF DENIAL OR NON-RENEWAL.—A provider of services or supplier whose application to enroll (or, if applicable, to renew enrollment) under this title is denied may have a hearing and judicial review of such denial under the procedures that apply under subsection (h)(1)(A) to a provider of services that is dissatisfied with a determination by the Secretary.''.

(b) EFFECTIVE DATES.—

(1) ENROLLMENT PROCESS.—The Secretary shall provide for the establishment of the enrollment process under section 1866(j)(1) of the Social Security Act, as added by subsection (a)(2), within 6 months after the date of the enactment of this Act.

(2) CONSULTATION.—Section 1866(j)(1)(C) of the Social Security Act, as added by subsection (a)(2), shall apply with respect to changes in provider enrollment forms made on or after January 1, 2002.

(3) HEARING RIGHTS.—Section 1866(j)(2) of the Social Security Act, as added by subsection (a)(2), shall apply to denials occurring on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary specifies.

SEC. 407. PROCESS FOR CORRECTION OF MINOR ERRORS AND OMISSIONS ON CLAIMS WITHOUT PURSUING APPEALS PROCESS.

The Secretary shall develop, in consultation with appropriate medicare contractors (as defined in section 1889(g) of the Social Security Act, as inserted by section 301(a)(1)) and representatives of providers of services and suppliers, a process whereby, in the case of minor errors or omissions (as defined by the Secretary) that are detected in the submission of claims under the programs under title XVIII of such Act, a provider of services or supplier is given an opportunity to correct such an error or omission without the need to initiate an appeal. Such process shall include the ability to resubmit corrected claims.

SEC. 408. PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES; ADVANCE BENEFICIARY NOTICES.

(a) IN GENERAL.—Section 1869 (42 U.S.C. 1395ff(b)), as amended by sections 521 and 522 of BIPA and section 403(d)(2)(B), is further amended by adding at the end the following new subsection:

''(h) PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES.—

''(1) ESTABLISHMENT OF PROCESS.—

''(A) IN GENERAL.—With respect to a medicare administrative contractor that has a contract under section 1874A that provides for making payments under this title with respect to eligible items and services described in subparagraph (C), the Secretary shall establish a prior determination process that meets the requirements of this subsection and that shall be applied by such contractor in the case of eligible requesters.

''(B) ELIGIBLE REQUESTER.—For purposes of this subsection, each of the following shall be an eligible requester:

''(i) A physician, but only with respect to eligible items and services for which the physician may be paid directly.

''(ii) An individual entitled to benefits under this title, but only with respect to an item or service for which the individual receives, from the physician who may be paid directly for the item or service, an advance beneficiary notice under section 1879(a) that payment may not be made (or may no longer be made) for the item or service under this title.

''(C) ELIGIBLE ITEMS AND SERVICES.—For purposes of this subsection and subject to paragraph (2), eligible items and services are items and services which are physicians' services (as defined in paragraph (4)(A) of section 1848(f) for purposes of calculating the sustainable growth rate under such section).

''(2) SECRETARIAL FLEXIBILITY.—The Secretary shall establish by regulation reasonable limits on the categories of eligible items and services for which a prior determination of coverage may be requested under this subsection. In establishing such limits, the Secretary may consider the dollar amount involved with respect to the item or service, administrative costs and burdens, and other relevant factors.

''(3) REQUEST FOR PRIOR DETERMINATION.—

''(A) IN GENERAL.—Subject to paragraph (2), under the process established under this subsection an eligible requester may submit to the contractor a request for a determination, before the furnishing of an eligible item or service involved as to whether the item or service is covered under this title consistent with the applicable requirements of section 1862(a)(1)(A) (relating to medical necessity).

''(B) ACCOMPANYING DOCUMENTATION.—The Secretary may require that the request be accompanied by a description of the item or service, supporting documentation relating to the medical necessity for the item or service, and any other appropriate documentation. In the case of a request submitted by an eligible requester who is described in paragraph (1)(B)(ii), the Secretary may require that the request also be accompanied by a copy of the advance beneficiary notice involved.

''(4) RESPONSE TO REQUEST.—

''(A) IN GENERAL.—Under such process, the contractor shall provide the eligible requester with written notice of a determination as to whether—

''(i) the item or service is so covered;

''(ii) the item or service is not so covered; or

''(iii) the contractor lacks sufficient information to make a coverage determination.

If the contractor makes the determination described in clause (iii), the contractor shall include in the notice a description of the additional information required to make the coverage determination.

''(B) DEADLINE TO RESPOND.—Such notice shall be provided within the same time period as the time period applicable to the contractor providing notice of initial determinations on a claim for benefits under subsection (a)(2)(A).

''(C) INFORMING BENEFICIARY IN CASE OF PHYSICIAN REQUEST.—In the case of a request in which an eligible requester is not the individual described in paragraph (1)(B)(ii), the process shall provide that the individual to whom the item or service is proposed to be furnished shall be informed of any determination described in clause (ii) (relating to a determination of non-coverage) and the right (referred to in paragraph (6)(B)) to obtain the item or service and have a claim submitted for the item or service.

''(5) EFFECT OF DETERMINATIONS.—

''(A) BINDING NATURE OF POSITIVE DETERMINATION.—If the contractor makes the determination described in paragraph (4)(A)(i), such determination shall be binding on the contractor in the absence of fraud or evidence of misrepresentation of facts presented to the contractor.

''(B) NOTICE AND RIGHT TO REDETERMINATION IN CASE OF A DENIAL.—

''(i) IN GENERAL.—If the contractor makes the determination described in paragraph (4)(A)(ii)—

''(I) the eligible requester has the right to a redetermination by the contractor on the determination that the item or service is not so covered; and

''(II) the contractor shall include in notice under paragraph (4)(A) a brief explanation of the basis for the determination, including on what national or local coverage or noncoverage determination (if any) the determination is based, and the right to such a redetermination.

''(ii) DEADLINE FOR REDETERMINATIONS.—The contractor shall complete and provide notice of such redetermination within the same time period as the time period applicable to the contractor providing notice of redeterminations relating to a claim for benefits under subsection (a)(3)(C)(ii).

''(6) LIMITATION ON FURTHER REVIEW.—

''(A) IN GENERAL.—Contractor determinations described in paragraph (4)(A)(ii) or (4)(A)(iii) (and redeterminations made under paragraph (5)(B)), relating to pre-service claims are not subject to further administrative appeal or judicial review under this section or otherwise.

''(B) DECISION NOT TO SEEK PRIOR DETERMINATION OR NEGATIVE DETERMINATION DOES NOT IMPACT RIGHT TO OBTAIN SERVICES, SEEK REIMBURSEMENT, OR APPEAL RIGHTS.—Nothing in this subsection shall be construed as affecting the right of an individual who—

''(i) decides not to seek a prior determination under this subsection with respect to items or services; or

''(ii) seeks such a determination and has received a determination described in paragraph (4)(A)(ii)), from receiving (and submitting a claim for) such items services and from obtaining administrative or judicial review respecting such claim under the other applicable provisions of this section. Failure to seek a prior determination under this subsection with respect to items and services

shall not be taken into account in such administrative or judicial review.

''(C) NO PRIOR DETERMINATION AFTER RECEIPT OF SERVICES.—Once an individual is provided items and services, there shall be no prior determination under this subsection with respect to such items or services.''.

(b) EFFECTIVE DATE; TRANSITION.—

(1) EFFECTIVE DATE.—The Secretary shall establish the prior determination process under the amendment made by subsection (a) in such a manner as to provide for the acceptance of requests for determinations under such process filed not later than 18 months after the date of the enactment of this Act.

(2) TRANSITION.—During the period in which the amendment made by subsection (a) has become effective but contracts are not provided under section 1874A of the Social Security Act with medicare administrative contractors, any reference in section 1869(g) of such Act (as added by such amendment) to such a contractor is deemed a reference to a fiscal intermediary or carrier with an agreement under section 1816, or contract under section 1842, respectively, of such Act.

(3) LIMITATION ON APPLICATION TO SGR.—For purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)), the amendment made by subsection (a) shall not be considered to be a change in law or regulation.

(c) PROVISIONS RELATING TO ADVANCE BENEFICIARY NOTICES; REPORT ON PRIOR DETERMINATION PROCESS.—

(1) DATA COLLECTION.—The Secretary shall establish a process for the collection of information on the instances in which an advance beneficiary notice (as defined in paragraph (4)) has been provided and on instances in which a beneficiary indicates on such a notice that the beneficiary does not intend to seek to have the item or service that is the subject of the notice furnished.

(2) OUTREACH AND EDUCATION.—The Secretary shall establish a program of outreach and education for beneficiaries and providers of services and other persons on the appropriate use of advance beneficiary notices and coverage policies under the medicare program.

(3) GAO REPORT REPORT ON USE OF ADVANCE BENEFICIARY NOTICES.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of advance beneficiary notices under title XVIII of such Act. Such report shall include information concerning the providers of services and other persons that have provided such notices and the response of beneficiaries to such notices.

(4) GAO REPORT ON USE OF PRIOR DETERMINATION PROCESS.—Not later than 18 months after the date on which section 1869(g) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of the prior determination process under such section. Such report shall include—

(A) information concerning the types of procedures for which a prior determination has been sought, determinations made under the process, and changes in receipt of services resulting from the application of such process; and

(B) an evaluation of whether the process was useful for physicians (and other suppliers) and beneficiaries, whether it was timely, and whether the amount of information required was burdensome to physicians and beneficiaries.

(5) ADVANCE BENEFICIARY NOTICE DEFINED.—In this subsection, the term ''advance beneficiary notice'' means a written notice provided under section 1879(a) of the Social Security Act (42 U.S.C. 1395pp(a)) to an individual entitled to benefits under part A or B of title XVIII of such Act before items or services are furnished under such part in cases where a provider of services or other person that would furnish the item or service believes that payment will not be made for some or all of such items or services under such title.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. POLICY DEVELOPMENT REGARDING EVALUATION AND MANAGEMENT (E & M) DOCUMENTATION GUIDELINES.

(a) IN GENERAL.—The Secretary may not implement any new documentation guidelines for evaluation and management physician services under the title XVIII of the Social Security Act on or after the date of the enactment of this Act unless the Secretary—

(1) has developed the guidelines in collaboration with practicing physicians (including both generalists and specialists) and provided for an assessment of the proposed guidelines by the physician community;

(2) has established a plan that contains specific goals, including a schedule, for improving the use of such guidelines;

(3) has conducted appropriate and representative pilot projects under subsection (b) to test modifications to the evaluation and management documentation guidelines;

(4) finds that the objectives described in subsection (c) will be met in the implementation of such guidelines; and

(5) has established, and is implementing, a program to educate physicians on the use of such guidelines and that includes appropriate outreach.

The Secretary shall make changes to the manner in which existing evaluation and management documentation guidelines are implemented to reduce paperwork burdens on physicians.

(b) PILOT PROJECTS TO TEST EVALUATION AND MANAGEMENT DOCUMENTATION GUIDELINES.—

(1) IN GENERAL.—The Secretary shall conduct under this subsection appropriate and representative pilot projects to test new evaluation and management documentation guidelines referred to in subsection (a).

(2) LENGTH AND CONSULTATION.—Each pilot project under this subsection shall—

(A) be voluntary;

(B) be of sufficient length as determined by the Secretary to allow for preparatory physician and medicare contractor education, analysis, and use and assessment of potential evaluation and management guidelines; and

(C) be conducted, in development and throughout the planning and operational stages of the project, in consultation with practicing physicians (including both generalists and specialists).

(3) RANGE OF PILOT PROJECTS.—Of the pilot projects conducted under this subsection—

(A) at least one shall focus on a peer review method by physicians (not employed by a medicare contractor) which evaluates medical record information for claims submitted by physicians identified as statistical outliers relative to definitions published in the Current Procedures Terminology (CPT) code book of the American Medical Association;

(B) at least one shall focus on an alternative method to detailed guidelines based on physician documentation of face to face encounter time with a patient;

(C) at least one shall be conducted for services furnished in a rural area and at least one for services furnished outside such an area; and

(D) at least one shall be conducted in a setting where physicians bill under physicians' services in teaching settings and at least one shall be conducted in a setting other than a teaching setting.

(4) BANNING OF TARGETING OF PILOT PROJECT PARTICIPANTS.—Data collected under this subsection shall not be used as the basis for overpayment demands or post-payment audits. Such limitation applies only to claims filed as part of the pilot project and lasts only for the duration of the pilot project and only as long as the provider is a participant in the pilot project.

(5) STUDY OF IMPACT.—Each pilot project shall examine the effect of the new evaluation and management documentation guidelines on—

(A) different types of physician practices, including those with fewer than 10 full-time-equivalent employees (including physicians); and

(B) the costs of physician compliance, including education, implementation, auditing, and monitoring.

(6) PERIODIC REPORTS.—The Secretary shall submit to Congress periodic reports on the pilot projects under this subsection.

(c) OBJECTIVES FOR EVALUATION AND MANAGEMENT GUIDELINES.—The objectives for modified evaluation and management documentation guidelines developed by the Secretary shall be to—

(1) identify clinically relevant documentation needed to code accurately and assess coding levels accurately;

(2) decrease the level of non-clinically pertinent and burdensome documentation time and content in the physician's medical record;

(3) increase accuracy by reviewers; and

(4) educate both physicians and reviewers.

(d) STUDY OF SIMPLER, ALTERNATIVE SYSTEMS OF DOCUMENTATION FOR PHYSICIAN CLAIMS.—

(1) STUDY.—The Secretary shall carry out a study of the matters described in paragraph (2).

(2) MATTERS DESCRIBED.—The matters referred to in paragraph (1) are—

(A) the development of a simpler, alternative system of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XVIII of the Social Security Act; and

(B) consideration of systems other than current coding and documentation requirements for payment for such physician services.

(3) CONSULTATION WITH PRACTICING PHYSICIANS.—In designing and carrying out the study under paragraph (1), the Secretary shall consult with practicing physicians, including physicians who are part of group practices and including both generalists and specialists.

(4) APPLICATION OF HIPAA UNIFORM CODING REQUIREMENTS.—In developing an alternative system under paragraph (2), the Secretary shall consider requirements of administrative simplification under part C of title XI of the Social Security Act.

(5) REPORT TO CONGRESS.—(A) Not later than October 1, 2003, the Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1).

(B) The Medicare Payment Advisory Commission shall conduct an analysis of the results of the study included in the report under subparagraph (A) and shall submit a report on such analysis to Congress.

(e) STUDY ON APPROPRIATE CODING OF CERTAIN EXTENDED OFFICE VISITS.—The Secretary shall conduct a study of the appropriateness of coding in cases of extended office visits in which there is no diagnosis made. Not later than October 1, 2003, the Secretary shall submit a report to Congress on such study and shall include recommendations on how to code appropriately for such visits in a manner that takes into account the amount of time the physician spent with the patient.

(f) DEFINITIONS.—In this section—

(1) the term ''rural area'' has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act, 42 U.S.C. 1395ww(d)(2)(D); and

(2) the term ''teaching settings'' are those settings described in section 415.150 of title 42, Code of Federal Regulations.

SEC. 502. IMPROVEMENT IN OVERSIGHT OF TECHNOLOGY AND COVERAGE.

(a) IMPROVED COORDINATION BETWEEN FDA AND CMS ON COVERAGE OF BREAKTHROUGH MEDICAL DEVICES.—

(1) IN GENERAL.—Upon request by an applicant and to the extent feasible (as determined by the Secretary), the Secretary shall, in the case of a class III medical device that is subject to premarket approval under section 515 of the Federal Food, Drug, and Cosmetic Act, ensure the sharing of appropriate information from the review for application for premarket approval conducted by the Food and Drug Administration for coverage decisions under title XVIII of the Social Security Act.

(2) PUBLICATION OF PLAN.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to appropriate Committees of Congress a report that contains the plan for improving such coordination and for shortening the time lag between the premarket approval by the Food and Drug Administration and coding and coverage decisions by the Centers for Medicare & Medicaid Services.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as changing the criteria for coverage of a medical device under title XVIII of the Social Security Act nor premarket approval by the Food and Drug Administration and nothing in this subsection shall be construed to increase premarket approval application requirements under the Federal Food, Drug, and Cosmetic Act.

(b) COUNCIL FOR TECHNOLOGY AND INNOVATION.—Section 1868 (42 U.S.C. 1395ee), as amended by section 301(a), is amended by adding at the end the following new subsection:

''(c) COUNCIL FOR TECHNOLOGY AND INNOVATION.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Council for Technology and Innovation within the Centers for Medicare & Medicaid Services (in this section referred to as 'CMS').

''(2) COMPOSITION.—The Council shall be composed of senior CMS staff and clinicians and shall be chaired by the Executive Coordinator for Technology and Innovation (appointed or designated under paragraph (4)).

''(3) DUTIES.—The Council shall coordinate the activities of coverage, coding, and payment processes under this title with respect to new technologies and procedures, including new drug therapies, and shall coordinate the exchange of information on new technologies between CMS and other entities that make similar decisions.

''(4) EXECUTIVE COORDINATOR FOR TECHNOLOGY AND INNOVATION.—The Secretary shall appoint (or designate) a noncareer appointee (as defined in section 3132(a)(7) of title 5, United States Code) who shall serve as the Executive Coordinator for Technology and Innovation. Such executive coordinator shall report to the Administrator of CMS, shall chair the Council, shall oversee the execution of its duties, and shall serve as a single point of contact for outside groups and entities regarding the coverage, coding, and payment processes under this title.''.

(c) GAO STUDY ON IMPROVEMENTS IN EXTERNAL DATA COLLECTION FOR USE IN THE MEDICARE INPATIENT PAYMENT SYSTEM.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study that analyzes which external data can be collected in a shorter time frame by the Centers for Medicare & Medicaid Services for use in computing payments for inpatient hospital services. The study may include an evaluation of the feasibility and appropriateness of using of quarterly samples or special surveys or any other methods. The study shall include an analysis of whether other executive agencies, such as the Bureau of Labor Statistics in the Department of Commerce, are best suited to collect this information.

(2) REPORT.—By not later than October 1, 2002, the Comptroller General shall submit a report to Congress on the study under paragraph (1).

(d) IOM STUDY ON LOCAL COVERAGE DETERMINATIONS.—

(1) STUDY.—The Secretary shall enter into an arrangement with the Institute of Medicine of the National Academy of Sciences under which the Institute shall conduct a study on local coverage determinations (including the application of local medical review policies) under the medicare program under title XVIII of the Social Security Act. Such study shall examine—

(A) the consistency of the definitions used in such determinations;

(B) the types of evidence on which such determinations are based, including medical and scientific evidence;

(C) the advantages and disadvantages of local coverage decisionmaking, including the flexibility it offers for ensuring timely patient access to new medical technology for which data are still be collected;

(D) the manner in which the local coverage determination process is used to develop data needed for a national coverage determination, including the need for collection of such data within a protocol and informed consent by individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both; and

(E) the advantages and disadvantages of maintaining local medicare contractor advisory committees that can advise on local coverage decisions based on an open, collaborative public process.

(2) REPORT.—Such arrangement shall provide that the Institute shall submit to the Secretary a report on such study by not later than 3 years after the date of the enactment of this Act. The Secretary shall promptly transmit a copy of such report to Congress.

(e) METHODS FOR DETERMINING PAYMENT BASIS FOR NEW LAB TESTS.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following:

''(8)(A) The Secretary shall establish by regulation procedures for determining the basis for, and amount of, payment under this subsection for any clinical diagnostic laboratory test with respect to which a new or substantially revised HCPCS code is assigned on or after January 1, 2003 (in this paragraph referred to as 'new tests').

''(B) Determinations under subparagraph (A) shall be made only after the Secretary—

''(i) makes available to the public (through an Internet site and other appropriate mechanisms) a list that includes any such test for which establishment of a payment amount under this subsection is being considered for a year;

''(ii) on the same day such list is made available, causes to have published in the Federal Register notice of a meeting to receive comments and recommendations (and data on which recommendations are based) from the public on the appropriate basis under this subsection for establishing payment amounts for the tests on such list;

''(iii) not less than 30 days after publication of such notice convenes a meeting, that includes representatives of officials of the Centers for Medicare & Medicaid Services involved in determining payment amounts, to receive such comments and recommendations (and data on which the recommendations are based);

''(iv) taking into account the comments and recommendations (and accompanying data) received at such meeting, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of proposed determinations with respect to the appropriate basis for establishing a payment amount under this subsection for each such code, together with an explanation of the reasons for each such determination, the data on which the determinations are based, and a request for public written comments on the proposed determination; and

''(v) taking into account the comments received during the public comment period, develops and makes available to the public (through an Internet site and other appropriate mechanisms) a list of final determinations of the payment amounts for such tests under this subsection, together with the rationale for each such determination, the data on which the determinations are based, and responses to comments and suggestions received from the public.

''(C) Under the procedures established pursuant to subparagraph (A), the Secretary shall—

''(i) set forth the criteria for making determinations under subparagraph (A); and

''(ii) make available to the public the data (other than proprietary data) considered in making such determinations.

''(D) The Secretary may convene such further public meetings to receive public comments on payment amounts for new tests under this subsection as the Secretary deems appropriate.

''(E) For purposes of this paragraph:

''(i) The term 'HCPCS' refers to the Health Care Procedure Coding System.

''(ii) A code shall be considered to be 'substantially revised' if there is a substantive change to the definition of the test or procedure to which the code applies (such as a new analyte or a new methodology for measuring an existing analyte-specific test).''.

SEC. 503. TREATMENT OF HOSPITALS FOR CERTAIN SERVICES UNDER MEDICARE SECONDARY PAYOR (MSP) PROVISIONS.

(a) IN GENERAL.—The Secretary shall not require a hospital (including a critical access

hospital) to ask questions (or obtain information) relating to the application of section 1862(b) of the Social Security Act (relating to medicare secondary payor provisions) in the case of reference laboratory services described in subsection (b), if the Secretary does not impose such requirement in the case of such services furnished by an independent laboratory.

(b) REFERENCE LABORATORY SERVICES DESCRIBED.—Reference laboratory services described in this subsection are clinical laboratory diagnostic tests (or the interpretation of such tests, or both) furnished without a face-to-face encounter between the individual entitled to benefits under part A or enrolled under part B, or both, and the hospital involved and in which the hospital submits a claim only for such test or interpretation.

SEC. 504. EMTALA IMPROVEMENTS.

(a) PAYMENT FOR EMTALA-MANDATED SCREENING AND STABILIZATION SERVICES.—

(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

''(d) For purposes of subsection (a)(1)(A), in the case of any item or service that is required to be provided pursuant to section 1867 to an individual who is entitled to benefits under this title, determinations as to whether the item or service is reasonable and necessary shall be made on the basis of the information available to the treating physician or practitioner (including the patient's presenting symptoms or complaint) at the time the item or service was ordered or furnished by the physician or practitioner (and not on the patient's principal diagnosis). When making such determinations with respect to such an item or service, the Secretary shall not consider the frequency with which the item or service was provided to the patient before or after the time of the admission or visit.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after January 1, 2002.

(b) NOTIFICATION OF PROVIDERS WHEN EMTALA INVESTIGATION CLOSED.—Section 1867(d) (42 U.S.C. 42 U.S.C. 1395dd(d)) is amended by adding at the end the following new paragraph:

''(4) NOTICE UPON CLOSING AN INVESTIGATION.—The Secretary shall establish a procedure to notify hospitals and physicians when an investigation under this section is closed.''.

(c) PRIOR REVIEW BY PEER REVIEW ORGANIZATIONS IN EMTALA CASES INVOLVING TERMINATION OF PARTICIPATION.—

(1) IN GENERAL.—Section 1867(d)(3) (42 U.S.C. 1395dd(d)(3)) is amended—

(A) in the first sentence, by inserting ''or in terminating a hospital's participation under this title'' after ''in imposing sanctions under paragraph (1)''; and

(B) by adding at the end the following new sentences: ''Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall also request such a review before making a compliance determination as part of the process of terminating a hospital's participation under this title for violations related to the appropriateness of a medical screening examination, stabilizing treatment, or an appropriate transfer as required by this section, and shall provide a period of 5 days for such review. The Secretary shall provide a copy of the report on the organization's report to the hospital or physician consistent with confidentiality requirements imposed on the organization under such part B.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to terminations of participation initiated on or after the date of the enactment of this Act.

SEC. 505. EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT (EMTALA) TECHNICAL ADVISORY GROUP.

(a) ESTABLISHMENT.—The Secretary shall establish a Technical Advisory Group (in this section referred to as the ''Advisory Group'') to review issues related to the Emergency Medical Treatment and Active Labor Act (EMTALA) and its implementation. In this section, the term ''EMTALA'' refers to the provisions of section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(b) MEMBERSHIP.—The Advisory Group shall be composed of 19 members, including the Administrator of the Centers for Medicare & Medicaid Services and the Inspector General of the Department of Health and Human Services and of which—

(1) 4 shall be representatives of hospitals, including at least one public hospital, that have experience with the application of EMTALA and at least 2 of which have not been cited for EMTALA violations;

(2) 7 shall be practicing physicians drawn from the fields of emergency medicine, cardiology or cardiothoracic surgery, orthopedic surgery, neurosurgery, pediatrics or a pediatric subspecialty, obstetrics-gynecology, and psychiatry, with not more than one physician from any particular field;

(3) 2 shall represent patients;

(4) 2 shall be staff involved in EMTALA investigations from different regional offices of the Centers for Medicare & Medicaid Services; and

(5) 1 shall be from a State survey office involved in EMTALA investigations and 1 shall be from a peer review organization, both of whom shall be from areas other than the regions represented under paragraph (4).

In selecting members described in paragraphs (1) through (3), the Secretary shall consider qualified individuals nominated by organizations representing providers and patients.

(c) GENERAL RESPONSIBILITIES.—The Advisory Group—

(1) shall review EMTALA regulations;

(2) may provide advice and recommendations to the Secretary with respect to those regulations and their application to hospitals and physicians;

(3) shall solicit comments and recommendations from hospitals, physicians, and the public regarding the implementation of such regulations; and

(4) may disseminate information on the application of such regulations to hospitals, physicians, and the public.

(d) ADMINISTRATIVE MATTERS.—

(1) CHAIRPERSON.—The members of the Advisory Group shall elect a member to serve as chairperson of the Advisory Group for the life of the Advisory Group.

(2) MEETINGS.—The Advisory Group shall first meet at the direction of the Secretary. The Advisory Group shall then meet twice per year and at such other times as the Advisory Group may provide.

(e) TERMINATION.—The Advisory Group shall terminate 30 months after the date of its first meeting.

(f) WAIVER OF ADMINISTRATIVE LIMITATION.—The Secretary shall establish the Advisory Group notwithstanding any limitation that may apply to the number of advisory committees that may be established (within the Department of Health and Human Services or otherwise).

SEC. 506. AUTHORIZING USE OF ARRANGEMENTS WITH OTHER HOSPICE PROGRAMS TO PROVIDE CORE HOSPICE SERVICES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended by adding at the end the following new subparagraph:

''(D) In extraordinary, exigent, or other non-routine circumstances, such as unanticipated periods of high patient loads, staffing shortages due to illness or other events, or temporary travel of a patient outside a hospice program's service area, a hospice program may enter into arrangements with another hospice program for the provision by that other program of services described in paragraph (2)(A)(ii)(I). The provisions of paragraph (2)(A)(ii)(II) shall apply with respect to the services provided under such arrangements.''.

(b) CONFORMING PAYMENT PROVISION.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

''(4) In the case of hospice care provided by a hospice program under arrangements under section 1861(dd)(5)(D) made by another hospice program, the hospice program that made the arrangements shall bill and be paid for the hospice care.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to hospice care provided on or after the date of the enactment of this Act.

SEC. 507. APPLICATION OF OSHA BLOODBORNE PATHOGENS STANDARD TO CERTAIN HOSPITALS.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (R), by striking ''and'' at the end;

(B) in subparagraph (S), by striking the period at the end and inserting '', and''; and

(C) by inserting after subparagraph (S) the following new subparagraph:

''(T) in the case of hospitals that are not otherwise subject to the Occupational Safety and Health Act of 1970, to comply with the Bloodborne Pathogens standard under section 1910.1030 of title 29 of the Code of Federal Regulations (or as subsequently redesignated).''; and

(B) by adding at the end of subsection (b) the following new paragraph:

''(4)(A) A hospital that fails to comply with the requirement of subsection (a)(1)(T) (relating to the Bloodborne Pathogens standard) is subject to a civil money penalty in an amount described in subparagraph (B), but is not subject to termination of an agreement under this section.

''(B) The amount referred to in subparagraph (A) is an amount that is similar to the amount of civil penalties that may be imposed under section 17 of the Occupational Safety and Health Act of 1970 for a violation of the Bloodborne Pathogens standard referred to in subsection (a)(1)(T) by a hospital that is subject to the provisions of such Act.

''(C) A civil money penalty under this paragraph shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.''.

(b) EFFECTIVE DATE.—The amendments made by this subsection (a) shall apply to hospitals as of July 1, 2002.

SEC. 508. ONE-YEAR DELAY IN LOCK IN PROCEDURES FOR MEDICARE+CHOICE PLANS; CHANGE IN MEDICARE+CHOICE REPORTING DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD FOR 2002.

(a) LOCK-IN DELAY.—Section 1851(e) (42 U.S.C. 1395w–21(e)) is amended—

(1) in paragraph (2)(A), by striking ''THROUGH 2001'' and ''and 2001'' and inserting ''THROUGH 2002'' and ''2001, and 2002'', respectively;

(2) in paragraph (2)(B), by striking ''DURING 2002'' and inserting ''DURING 2003'';

(3) in paragraphs (2)(B)(i) and (2)(C)(i), by striking ''2002'' and inserting ''2003'' each place it appears;

(4) in paragraph (2)(D), by striking ''2001'' and inserting ''2002''; and

(5) in paragraph (4), by striking ''2002'' and inserting ''2003'' each place it appears.

(b) CHANGE IN DEADLINES AND ELECTION PERIOD.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) the deadline for submittal of information under section 1854(a)(1) of the Social Security Act (42 U.S.C. 1395w–24(a)(1)) for 2002 is changed from July 1, 2002, to the third Monday in September of 2002; and

(B) the annual, coordinated election period under section 1851(e)(3)(B) of such Act (42 U.S.C. 1395w–21(e)(3)(B)) with respect to 2003 shall be the period beginning on November 15, 2002, and ending on December 31, 2002.

(2) GAO STUDY ON IMPACT OF CHANGE ON BENEFICIARIES AND PLANS.—The Comptroller General of the United States shall conduct a review of the Medicare+Choice open enrollment process that occurred during 2001, including the offering of Medicare+Choice plans for 2002. By not later than May 31, 2002, the Comptroller General shall submit a report to Congress and the Secretary on such review. Such report shall include the following:

(A) An analysis of the effect of allowing additional time for the submittal of adjusted community rates and other data on the extent of participation of Medicare+Choice organizations and on the benefits offered under Medicare+Choice plans.

(B) An evaluation of the plan-specific information provided to beneficiaries, the timeliness of the receipt of such information, the adequacy of the duration of the open enrollment period, and relevant operational issues that arise as a result of the timing and duration of the open enrollment period, including any problems related to the provision services immediately following enrollment.

(C) The results of surveys of beneficiaries and Medicare+Choice organizations.

(D) Such recommendations regarding the appropriateness of the changes provided under paragraph (1) as the Comptroller General finds appropriate.

SEC. 509. BIPA-RELATED TECHNICAL AMENDMENTS AND CORRECTIONS.

(a) TECHNICAL AMENDMENTS RELATING TO ADVISORY COMMITTEE UNDER BIPA SECTION 522.—(1) Subsection (i) of section 1114 (42 U.S.C. 1314)—

(A) is transferred to section 1862 and added at the end of such section; and

(B) is redesignated as subsection (j).

(2) Section 1862 (42 U.S.C. 1395y) is amended—

(A) in the last sentence of subsection (a), by striking ''established under section 1114(f)''; and

(B) in subsection (j), as so transferred and redesignated—

(i) by striking ''under subsection (f)''; and

(ii) by striking ''section 1862(a)(1)'' and inserting ''subsection (a)(1)''.

(b) TERMINOLOGY CORRECTIONS.—(1) Section 1869(c)(3)(I)(ii) (42 U.S.C. 1395ff(c)(3)(I)(ii)), as amended by section 521 of BIPA, is amended—

(A) in subclause (III), by striking ''policy'' and inserting ''determination''; and

(B) in subclause (IV), by striking ''medical review —policies'' and inserting ''coverage determinations''.

(2) Section 1852(a)(2)(C) (42 U.S.C. 1395w–22(a)(2)(C)) is amended by striking ''policy'' and ''POLICY'' and inserting ''determination'' each place it appears and ''DETERMINATION'', respectively.

(c) REFERENCE CORRECTIONS.—Section 1869(f)(4) (42 U.S.C. 1395ff(f)(4)), as added by section 522 of BIPA, is amended—

(1) in subparagraph (A)(iv), by striking ''subclause –(I), (II), or (III)'' and inserting ''clause (i), (ii), or (iii)'';

(2) in subparagraph (B), by striking ''clause (i)(IV)'' –and ''clause (i)(III)'' and inserting ''subparagraph (A)(iv)'' and ''subparagraph (A)(iii)'', respectively; and

(3) in subparagraph (C), by striking ''clause (i)'', ''subclause (IV)'' and ''subparagraph (A)'' and inserting ''subparagraph (A)'', ''clause (iv)'' and ''paragraph (1)(A)'', respectively each place it appears.

(d) OTHER CORRECTIONS.—Effective as if included in the enactment of section 521(c) of BIPA, section 1154(e) (42 U.S.C. 1320c–3(e)) is amended by striking paragraph (5).

(e) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall be effective as if included in the enactment of BIPA.

SEC. 510. CONFORMING AUTHORITY TO WAIVE A PROGRAM EXCLUSION.

The first sentence of section 1128(c)(3)(B) (42 U.S.C. 1320a–7(c)(3)(B)) is amended to read as follows: ''Subject to subparagraph (G), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of the administrator of a Federal health care program (as defined in section 1128B(f)) who determines that the exclusion would impose a hardship on individuals entitled to benefits under part A of title XVIII or enrolled under part B of such title, or both, the Secretary may waive the exclusion under subsection (a)(1), (a)(3), or (a)(4) with respect to that program in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community.''.

SEC. 511. TREATMENT OF CERTAIN DENTAL CLAIMS.

(a) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

''(d)(1) Subject to paragraph (2), a group health plan (as defined in subsection (a)(1)(A)(v)) providing supplemental or secondary coverage to individuals also entitled to services under this title shall not require a medicare claims determination under this title for dental benefits specifically excluded under subsection (a)(12) as a condition of making a claims determination for such benefits under the group health plan.

''(2) A group health plan may require a claims determination under this title in cases involving or appearing to involve inpatient dental hospital services or dental services expressly covered under this title pursuant to actions taken by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 60 days after the date of the enactment of this Act.

SEC. 512. MISCELLANEOUS REPORTS, STUDIES, AND PUBLICATION REQUIREMENTS.

(a) GAO REPORTS ON THE PHYSICIAN COMPENSATION.—

(1) SUSTAINABLE GROWTH RATE AND UPDATES.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the appropriateness of the updates in the conversion factor under subsection (d)(3) of section 1848 of the Social Security Act (42 U.S.C. 1395w–4), including the appropriateness of the sustainable growth rate formula under subsection (f) of such section for 2002 and succeeding years. Such report shall examine the stability and predictability of such updates and rate and alternatives for the use of such rate in the updates.

(2) PHYSICIAN COMPENSATION GENERALLY.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on all aspects of physician compensation for services furnished under title XVIII of the Social Security Act, and how those aspects interact and the effect on appropriate compensation for physician services. Such report shall review alternatives for the physician fee schedule under section 1848 of such title (42 U.S.C. 1395w–4).

(b) PROMPT SUBMISSION OF OVERDUE REPORTS ON PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY SERVICES.—The Secretary shall submit to Congress as expeditiously as practicable the reports required under section 4541(d)(2) of the Balanced Budget Act of 1997 (relating to alternatives to a single annual dollar cap on outpatient therapy) and under section 221(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (relating to utilization patterns for outpatient therapy).

(c) ANNUAL PUBLICATION OF LIST OF NATIONAL COVERAGE DETERMINATIONS.—The Secretary shall provide, in an appropriate annual publication available to the public, a list of national coverage determinations made under title XVIII of the Social Security Act in the previous year and information on how to get more information with respect to such determinations.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from California (Mr. STARK) each will control 20 minutes.

The Chair recognizes the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 10 minutes to the gentleman from Louisiana (Mr. TAUZIN), and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Secretary Thompson said about Medicare, ''Complexity is over the system, criminalizing honest mistakes, and driving doctors, nurses, and other health care professionals out of the program.''

I agree.

Medicare and Medicaid are governed by 132,000 pages of regulations. That is 3 times the IRS Code and its regulations and the result is exactly as the Secretary described.

Memorial Hospital in Gonzales, Texas has 33 beds and 20 billing staff. Northwestern Memorial Hospital in

Chicago just hired 26 new full-time employees to meet new regulatory requirements.

At a time when we need Medicare dollars for more nursing care, prescription drugs, annual physicals, and new systems to help seniors manage multiple chronic illnesses, we cannot in good conscience ignore the costly administrative burdens and the multitude of injustices being heaped on Medicare doctors, hospitals, home health care providers, nursing homes, and other providers by a literal explosion of complex law, regulation directives, and paperwork.

To address what I consider to be a crisis endangering the ability of small providers and many doctors to continue to serve our Nation's seniors, last January my subcommittee began taking a hard look at provider complaints. Today we bring to you a bipartisan bill to address the severe problems that have developed in Medicare.

The bill before us does many radical things. It disciplines the regulatory process so regulations will be issued through a predictable and timely process, with provider input before proposed regulations are made public.

Another radical thing it does, it stops, it prohibits government from imposing regulations retroactively. There will be no more changing the rules of the game and then punishing providers for noncompliance. It prohibits, read that ''stops,'' government from imposing sanctions and demanding repayment if they provided care to seniors in compliance with written guidance from the government. It speeds up the process Medicare uses to set payments for new diagnostic and treatment technologies by creating a Council of Technology and Innovation. It requires a simple process to correct technical error, relieving our caregivers of all the paperwork and severe cash flow problems that result from the laborious appeals process, a killer of small providers.

Radically, we require through this bill that the people who process payments for Medicare services answer questions accurately. GAO found that these contractors answered only 15 percent of routine questions accurately, and, worse yet, 32 percent of provider questions were answered completely inaccurately.

By setting performance standards in competitive contracting, Medicare can assure better-quality provider support services.

Under this bill, doctors get fairer treatment when audited for billing inaccuracy. They will get explanations, the right to discuss coding differences, and written explanations when differences remain. This should stop the arbitrary decisions that result in tens of thousands of dollars of unjust fines.

When a physician who is responsible for running the Medicare program tells me she cannot tell the difference between a comprehensive physical and a detailed physical, two entirely different levels of care for billing purposes, should we be surprised that doctors who make coding errors are frustrated and angered by Medicare's arbitrary, confrontational audits by nonmedical people and its complex, irrational documentation requirements?

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I am proud that this is a bipartisan bill. It has been developed with the study and input of every member of the Ways and Means Subcommittee on Health, and then the follow-on input of the Committee on Energy and Commerce, Republicans and Democrats, as well as the administration and the Inspector General.

I want to especially thank John McManus, Jennifer Baxendell, Deborah Williams, Joel White, Cybele Bjorklund and Carl Taylor, our Republican and Democratic staff members of the Committee on Ways and Means, because this has been an incredibly time-consuming, work-intensive bill. Without their endless attention to detail and thoughtful, sound judgments, it would not be before us today.

Please support H.R. 3391. It is a giant step toward a stronger Medicare program.

THANK YOUS ON H.R. 3391

LEGISLATIVE COUNSEL

Ed Grossman.
Pierre Poisson.

CONGRESSIONAL RESEARCH SERVICE

Siby Tilson.

CONGRESSIONAL BUDGET OFFICE

Tom Bradley.
Alexis Ahlstrom.

WAYS AND MEANS MINORITY

Cybele Bjorklund.
Carl Taylor.

ENERGY AND COMMERCE STAFF

Pat Morrisey.
Erin Kuhls.
Julie Corcoran.
Bridgett Taylor.
Karen Folk.
Amy Hall.
Susan Christensen.
Jayna Gadomski.

DEPT. OF HEALTH AND HUMAN SERVICES

Staff.

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

Mr. STARK. Mr. Speaker, I ask unanimous consent that at the conclusion of 10 minutes of my time that 10 minutes be yielded to the gentleman from Ohio (Mr. BROWN) for the purposes of control.

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

There was no objection.

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

The bill we are moving today embodies basically the way Congress used to work, with the majority and minority working together to enact improvements to the Medicare program. On this bill, the Medicare Regulatory and Contracting Reform Act, both sides have worked closely with the administration, with providers, consumers groups and others. It has been a bipartisan, consultative process as it should be.

In addition, Mr. Speaker, I think it is important to acknowledge the outstanding leadership and hard work of the gentlewoman from Nevada (Ms. BERKLEY). She brought this matter to the attention of Congress and has shepherded it along the way and has been an invaluable help in seeing this legislation be completed.

The legislation contains important beneficiary provisions which I think are important to emphasize. We have established a beneficiary ombudsman program that will provide a voice for beneficiaries within the Centers for Medicare and Medicaid Services, now CMS, I still want to call it HCFA, but will enable that agency to better respond to and anticipate beneficiary needs. As every Member knows, Members must now help Medicare beneficiaries with their casework because no office really exists within CMS to help the beneficiaries.

We have also established a single national toll free telephone number, 1–800–MEDICARE, I hope it answers, for the beneficiaries to call with their questions; and this single telephone number will replace the many pages of telephone numbers that beneficiaries now must sort through in the Medicare handbook to find the correct place to call with their questions.

I am particularly pleased that a demonstration program will place Medicare staff in Social Security field offices to answer beneficiary questions and provide assistance on Medicare issues. Beneficiaries are accustomed to going to Social Security offices, as indeed are the caseworkers in our local offices, for help and assistance in these programs. This will help by having Medicare assistance for them in these same offices.

I would also like to suggest accolades for the gentleman from Pennsylvania (Mr. ENGLISH), who has worked with me on a bill to protect nurses and other health care workers from needle stick injuries by requiring the use of safe needle technology in public hospitals, as well as has been required by those hospitals under OSHA supervision. We have been working on this issue for years, and we have made significant progress; and this legislation completes those efforts, and this provision in the bill will save lives. It is an important component of the bill.

Importantly, this bill delays for a year the requirement in law that would begin in 2002 to lock beneficiaries into the Medicare+Choice plans, and under this legislation beneficiaries would

continue to be able to enroll in and disenroll from these plans throughout the year. I would strongly prefer to repeal the lock-in altogether, but I believe a 1-year delay is a good start.

Finally, the bill takes long overdue steps to fundamentally reform Medicare's contracting system. We have worked on this for years. I am confident under this new system we can get a better deal for our government and still maintain quality service and performance goals for the beneficiary.

This will place additional administrative burdens on CMS; and as we discussed earlier today with the gentleman from Ohio (Mr. HOBSON) and others, we will continue to see that Labor HHS appropriation bills provide modest increases in administrative resources for CMS to complete this work.

I guess that said, Mr. Speaker, I have to add that I think it is somewhat disgraceful that this ends up being our really only Medicare legislation this year. We started the 107th Congress with a record budget surplus and the ability to easily enact and pay for comprehensive, affordable prescription drug coverage and other significant improvements through all Medicare beneficiaries, in addition to funding other key national priorities in education and other social areas.

The surplus, instead, was squandered on excessive tax breaks for the wealthy, and it is now clear that the Bush recession that began last spring and the Republican tax package have sealed the deal. Our legislative record at the end of the first session of the 107th Congress is a tribute to misplaced priorities.

I look forward to changing that and working with my colleagues as we have on this bill on the Subcommittee on Health to see if in the next session of Congress we can reverse this course and improve the Medicare system as it has long been set aside from doing.

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is my privilege to yield 1½ minutes to the gentlewoman from Washington (Ms. DUNN), a hardworking member of our subcommittee.

Ms. DUNN. Mr. Speaker, I rise in support of this bill to provide regulatory relief to doctors throughout the Nation. I want to thank the gentleman from California (Mr. THOMAS) for being involved in developing this legislation; but I want to give special kudos to the gentlewoman from Connecticut (Mrs. JOHNSON), the subcommittee chairman, and the gentleman from California (Mr. STARK), her ranking member, because they worked together. This is bipartisan and we are very pleased with the result of our work. It will cost nothing, but it does true regulatory reform.

I also want to thank my colleagues, the gentleman from Maryland (Mr. EHRLICH) and the gentleman from Washington (Mr. MCDERMOTT), for working with me to ensure that in this bill our seniors have access to the latest clinical laboratory tests.

I am very pleased that this regulatory relief bill creates a transparent, timely and public process at CMS to evaluate and to incorporate new technologies into the Medicare program. This is a critical step in ensuring that doctors have every tool available to assist our seniors.

Medical innovations are moving too fast to wait for Medicare's coverage and payments. This is especially true for new laboratory tests, a field that has been rapidly advancing in innovations exponentially.

The quality of our health care system here in the United States depends on our ability to prevent, diagnose, and treat illnesses and diseases. Support this legislation so that our Nation's seniors will be able to access breakthrough tests that can help save their lives.

Mr. STARK. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Nevada (Ms. BERKLEY), who is one of the originators of this legislation.

Ms. BERKLEY. Mr. Speaker, I rise today in strong support of H.R. 3391, to provide long-awaited Medicare regulatory relief to health care providers. I would like to particularly thank my colleagues who have worked so hard to make this piece of legislation a reality, the gentlewoman from Connecticut (Mrs. JOHNSON); the gentleman from California (Mr. STARK), especially for his very generous praise, I appreciate that; the gentleman from Ohio (Mr. BROWN); the gentleman from Florida (Mr. BILIRAKIS); the gentleman from New York (Mr. RANGEL); the gentleman from California (Mr. THOMAS); the gentleman from Louisiana (Mr. TAUZIN); and the gentleman from Michigan (Mr. DINGELL) for their hard work on this legislation. I would especially like to thank the gentleman from Pennsylvania (Mr. TOOMEY) for his leadership on this issue.

I became involved with this legislation when doctor after doctor in the Las Vegas area came to me with horror stories of how they had been treated by HCFA and how it had inhibited their ability to care for their patients. The cornerstone of health care in this country is the doctor-patient relationship, and many of us have fought consistently to maintain the integrity of this fundamental and very personal relationship.

Over the years, excessive paperwork and overburdensome government regulation have interfered with that relationship. This legislation will help cut red tape and bureaucratic excesses so doctors can spend more time with their patients and less time on paperwork.

Reform is important to the doctors, important to our seniors, and vital to the health of Medicare. While this bill, as the gentleman from California (Mr. STARK) says, does not include everything I had hoped for, it is a very significant step in the right direction. I am proud that my name is associated with this bill, and I urge all of my colleagues to support it.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentlewoman from Nevada (Ms. BERKLEY) and the gentleman from Pennsylvania (Mr. TOOMEY), who is going to speak later, for their hard work on behalf of physicians, most of which is reflected in this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 3391. This legislation makes extensive changes and modifications in the regulatory and contracting systems within Medicare, and I commend the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from California (Mr. STARK) for their work on this measure.

Along with many of our colleagues, I have heard in recent years that increasing drumbeat of criticism, from health care providers and patients in my own district, over a cumbersome Medicare system that was slow to adapt to rapid changes in health care, cumbersome in its management of existing benefits, and required far too much time spent in processing paperwork for claims reimbursements.

Moreover, there is also a widespread perception that the Centers for Medicare and Medicaid Services, formerly known as HCFA, has in the past issued new regulations in an arbitrary and capricious manner, with little regard for the interests and situations of those health care providers who would be impacted by a regulatory change. The fact that many of these changes came without sufficient accompanying explanations further exacerbated problems for providers and patients who often have difficulty divining the arcane and often confusing world of Medicare regulations.

There is also the issue of the Medicare contracting program which, in this age of open government, remains a closed system. This has fostered inefficiency and prevented the Medicare contracting program from keeping up with rapid developments in the delivery of health care in the private sector.

H.R. 3391 is a bipartisan solution to address these problems and to serve as the first step in modernizing overhaul of the Medicare system, which streamlines the regulatory process, reforms the contracting system to make it more open and accountable, expanding outreach and education to better inform both providers and patients of

their rights and responsibilities, and makes important improvements to the appeals and recovery process.

Mr. Speaker, Medicare, along with the Social Security system, represents the most popular and successful program for seniors ever enacted. This bill will ensure the continued success of the system by making it easier for Medicare health care providers to operate within the system, as well as to offer relief through the reduction of paperwork burdens.

This measure will both reform the Medicare system and improve confidence in its future on the part of both providers and patients. Accordingly, I urge my colleagues to fully join in supporting this measure.

Mr. STARK. Mr. Speaker, I am pleased to yield 2½ minutes to the gentlewoman from Florida (Mrs. THURMAN), who has worked diligently on this legislation in behalf of all the seniors, most of whom I think reside in her district in Florida, but for all of the rest of us seniors who do not.

Mrs. THURMAN. Mr. Speaker, I want to thank the gentleman from California (Mr. STARK) for yielding me this time and those nice remarks, but I also want to thank the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN). Without their diligence and all of the committees working together, this piece of legislation would not have been brought forward to this floor.

People sometimes do not realize how complicated Medicare can be at times; and when one is trying to balance beneficiaries and the doctors and the contractors, sometimes we have to work through some very difficult situations.

I will tell my colleagues that in talking with my doctors in the fifth district, one of the things that I heard over and over again was the sheer volume and complexity of the Medicare regulations and what it has meant to them. Most of what it means to them is they do not have the time to spend with their patients because they are spending so much time on the complexities.

Another issue that I think is very important about this is that these doctors also tell me, in talking with their staffs and their offices, that their administrative expenses can represent as much as 25 percent of their cost. That means, again, the cost to Medicare and the dollars that we have available is not being spent on the patient, but on administrative costs. So hiring an extra person, doing something more for the patient can sometimes cause a problem.

In seeing that in this piece of legislation, one of the things that we fought very hard for and I think is going to be a wonderful opportunity for us to look at in the future is the demonstration program that we provided to on-site technical assistance for doctors to help with the complexity of Medicare coding.

□ 1715

We heard an awful lot about that. So this was an issue we thought put them on site, they get the opportunity to really sit down with folks and figure out where their problems might be.

Then I also want to thank the gentleman from Minnesota (Mr. RAMSTAD) for his leadership on a piece of legislation that he and I introduced for a couple of years in a row dealing with technology. And so what we have done in this bill is we have actually set up a Council for Technology and Innovation within CMS. This council will have an executive coordinator who acts as a single point of contact between CMS and outside entities to help explain coverage, coding, and payment questions about new and innovative technologies.

We are all very proud of what happens in this country with innovation. So I would just like to take this opportunity to thank all, and our staffs, that were involved in this, and ask for my colleagues' support for this bill.

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I conclude by thanking the gentleman from California for his cooperation throughout this long process, and our joint efforts, and also his staff, as I did earlier. They have worked very, very long hours on this.

And I would like to say that this bill is only the beginning of strengthening Medicare. The administration is organizing task forces with real-world providers on them to rethink the most time consuming forms that health care providers have to fill out. If we can collect only the data we need, streamline and simplify billing systems and administrative processes, we can literally free millions of hours of caregiver time for the benefit of our seniors. It will take the leadership of Secretary Thompson and Administrator Scully, and it will take long hearings and attention to detail next year and the year after, working together, our committee and the Committee on Energy and Commerce.

Together, we can make Medicare a model of smart, responsive government and reverse the belief expressed by so many in our hearings, but summed up by a doctor who said, ''Medicare has lost a sense of fairness, due process and common sense.'' We intend to restore those qualities to the most beloved and important program in our Nation not just for seniors but for their children and grandchildren as well.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume, and I rise today in strong support of H.R. 3391, the Medicare Regulatory Contracting Reform Act of 2001.

The bill captures the best of two bills. The legislation reported out of the Committee on Ways and Means, and H.R. 3046, the Medicare RACER Act, which was reported from the Committee on Energy and Commerce. It represents the diligent work of the many Members of Congress to make the Medicare program more flexible and less bureaucratic. It is also a shining example of what can be achieved when we have true bipartisan cooperation.

Earlier this year, the Committee on Energy and Commerce began a project we called ''patients first.'' The idea was indeed to try to see if we could not reform the regulations and the burdens at CMS to indeed put patients first; to make sure that physicians and health care providers, who are forced to spend too much time filling out forms and trying to learn the rules of the road and the changing rules of the road, might in fact get some relief.

Our committee held a number of hearings and we disseminated surveys to elicit input from beneficiaries and health care providers about the complexities of the Medicare program and its rules. We also brought together beneficiary groups, provider associations, and government officials to talk about regulatory relief.

Because of the leadership particularly of the gentleman from Pennsylvania (Mr. TOOMEY) and the gentlewoman from Nevada (Ms. BERKLEY), we are standing here today with an opportunity to vote on legislation that will enable doctors to spend more of their time caring for patients, putting patients first, and putting in less time completing paperwork for the government and bureaucrats.

The Toomey-Berkley Medicare RACER Act was successfully reported from the Subcommittee on Health, thanks to the dedication and commitment of the chairman, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Georgia (Mr. NORWOOD). It was also successfully reported out of the full Committee on Energy and Commerce. It requires contractors to provide general written responses to written inquiries from beneficiaries and health care providers within 45 business days, and it requires Medicare contractors to notify health care providers of problems that have been identified in a probe sample, and to alert providers as to the steps they should take to resolve the problems.

Each of these improvements is significant and each of them has been included in the bill we are about to vote on today. And I wish to thank my colleagues from the Committee on Ways and Means for working so well with the gentleman from Florida (Mr. BILIRAKIS), the gentleman from Ohio (Mr.

BROWN), the gentleman from Michigan (Mr. DINGELL), and myself to consolidate the work of our two committees. Lord knows, we need to thank the staff who put in hours and hours and hours, late nights and weekends, to bring all this together.

We worked to strike an appropriate balance between the need for regulatory relief and the government's obligation to protect taxpayer funds from waste, fraud, and abuse. This captures the hard work of both committees. It has broad support with the beneficiary groups, the health care community and, by the way, the administration.

I urge my colleagues to join us in full support of the legislation.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to join my colleagues both on the Committee on Ways and Means and the Committee on Energy and Commerce in support of H.R. 3391. I want to thank my colleagues, the gentleman from Pennsylvania (Mr. TOOMEY) and the gentlewoman from Nevada (Ms. BERKLEY) for taking on this daunting task. In a resource-limited environment, they were determined to identify reforms in Medicare operations that serve the best interests of beneficiaries and respond to a host of legitimate issues raised by providers, while making sure to in no way compromise the program's efforts to fight fraud, waste and abuse. It is a tall order and the gentleman from Pennsylvania and the gentlewoman from Nevada did an excellent job.

This bipartisan legislation was a collective effort, to say the least. It was written and rewritten and rewritten with the input of the health care community, consumer advocates, the committees of jurisdiction, and the administration. It took months, it took difficult compromises, but the final product will make a tangible, positive difference for beneficiaries and providers alike.

Key provisions of the bill bolster communications between and among the Medicare program and its beneficiaries and providers, improve the Medicare appeals process, and establish new performance standards for Medicare contractors.

No one is well served when providers either cannot get the information they need or coverage policies are unclear, or anti-fraud and abuse measures elicit such mistrust that providers second-guess every treatment decision. This legislation takes those issues seriously and does something about them. Importantly, the bill also provides and improves Medicare responsiveness to its 39 million beneficiaries.

I want to thank my colleagues, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), and the gentleman from Michigan (Mr. DINGELL) especially, and staff members Bridgett Taylor, Karen Folk, Amy Hall, and on my staff, Katie Porter and Ellie Dehoney for fighting tooth and nail to ensure this legislation, in effect, keeps our eye on the ball. They made sure the bill contains provisions that relate directly to Medicare's fundamental mission, to make sure seniors and disabled individuals receive the care that they need.

Thanks largely to their resolve and hard work, this legislation ensures that seniors know definitively and up front whether Medicare covers the health care their doctor recommends. Especially for low-income seniors, that is a crucial and overdue change in Medicare rules, and I appreciate the negotiated work that we all could do on that issue.

The Medicare fee-for-service program is the largest insurance program in the United States, serving 36 million Americans, contracting with almost 1 million providers. Recent surveys document what most of us know from speaking with our constituents; that is, an overwhelming majority of Medicare beneficiaries trust in and are very satisfied with their coverage under fee-for-service Medicare.

Americans overwhelmingly oppose Republican efforts to privatize this system, Americans overwhelmingly reject Republican efforts to allow more insurance company intrusion into fee-for-service Medicare, and Americans overwhelmingly want prescription drug coverage, an area where this Congress and the Bush administration have so far failed miserably to achieve. But since that level of trust and satisfaction the people in this country have for Medicare is a fundamental measure of this program's success, changing the Medicare rules was a high-stakes exercise that we, bipartisanly, were able to achieve.

I am confident that the changes encompassed in this bill are in the best interest of beneficiaries, most importantly; also to providers and taxpayers, and I encourage my colleagues to support it.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. BILIRAKIS), the distinguished chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, I too rise today in support of patients. The legislation before us is good for patients. By reducing regulatory burdens and easing paperwork requirements, this legislation allows doctors to spend more of their time providing health care and less of their time wading through pages over rules and regulations.

At the beginning of this session, the Committee on Energy and Commerce launched an ambitious bipartisan initiative to reform the Centers for Medicare and Medicaid Services and to put patients first. This initiative became known as the ''patients first'' project. Much of the legislation before us today stems from the committee's work on this project, which was led by my colleague, the gentleman from Georgia (Mr. NORWOOD). Foundational to this work was the prior work of the gentleman from Pennsylvania (Mr. TOOMEY) and the gentlewoman from Nevada (Ms. BERKLEY).

The bill we will vote on today includes many of the provisions of the Medicare RACER Act, which was favorably reported out of my Subcommittee on Health as well as the full Committee on Energy and Commerce last month. It includes improvements focused on the Emergency Medical Treatment and Labor Act. Also included in the legislation is important language regarding advanced beneficiary notices. This language allows physicians to find out whether a specific physician service they are providing will be covered by Medicare before delivering the care.

Mr. Speaker, I would like to thank all of the staff who put so much time into this legislation, especially Erin Kuhls, Julie Corcoran, Nandan Kenkeremath, Pat Morriset, Anne Esposito, Steve Tilton, Karen Folk, Amy Hall, and, of course, last but not least, Karen Taylor.

H.R. 3391 is good for patients and providers alike, and I encourage my fellow colleagues to vote in favor of this legislation today.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), the ranking Democrat on the Committee on Energy and Commerce that was here and presided over this House when Medicare was passed in 1965.

Mr. DINGELL. Mr. Speaker, I thank my good friend for yielding me this time, and I rise today to speak in favor of H.R. 3391, the Medicare Regulatory and Contracting Reform Act of 2001. I rise also to praise my colleagues on the committee, the distinguished chairman of the committee, the distinguished chairman of the subcommittee, and my good friend, the gentleman from Ohio, Mr. BROWN and others, including the very fine staffs on both sides of the aisle that worked so hard.

The legislation is a product of bipartisan collaboration between two great committees, the Committee on Energy and Commerce and the Committee on Ways and Means, and also with seniors' groups, providers, and others. This is a bill which is fair. It strikes a balance between addressing the program administration concerns of beneficiaries and providers and ensuring integrity of the program itself.

This legislation makes a number of wise improvements in the Medicare

program. It gives the Centers for Medicare and Medicaid Services, CMS, additional flexibility with claims processors. It also strengthens the independent standards for appeals. It entitles the beneficiaries and the reviewers to ensure independent appeals are really independent, are fair, and in fact take place.

I do wish again to commend my friend, the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), the staff at CMS, as well as my good friend the gentleman from Ohio, for their work on this, and also our friends on the Committee on Ways and Means and the majority and minority staff of both committees for the work they have done.

In addition to strengthening the requirements for organizations that will be reviewing appeals, we have improved upon notices that beneficiaries receive when a service is denied, making this situation more user friendly and understandable to beneficiaries who are most often in their later years. More importantly, we have developed a process where seniors can learn whether or not a particular item and service is covered under Medicare before they are financially committed to that service, something which is not presently the case and which creates immense hardship either by denying benefits or imposing unanticipated costs on senior citizens on fixed and limited incomes.

Currently the only way a senior can find out if Medicare covers an item or a service is to potentially risk thousands of his or her dollars by getting the service and then pray Medicare will pay the claim. Obviously, this is unfair, and many seniors choose not to get a service rather than take a chance that Medicare will not cover it. This legislation fixes this, a situation which is clearly unjust. And while the provision as it stands now is limited only to physician service in order to meet scoring requirements, I hope, and I intend that in the future we will give the beneficiaries this right for all Medicare services.

□ 1730

Mr. Speaker, I urge my colleagues to support the bill. Medicare is the most socially successful and valuable program of this day. The program works for beneficiaries and providers alike, but we must ensure that it continues to be a success. The Medicare Regulatory and Contracting Reform Act will do just that.

More remains to be done, and I look forward to working with the same fine colleagues that I did to bring this about. The Medicare legislation that we have before us ensures that Medicare fee for services will continue to serve beneficiaries, and it will cause further approval and satisfaction with one of our great legislative accomplishments, Medicare.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY), the author of this legislation, who, together with the gentlewoman from Nevada (Ms. BERKLEY), put together 240 co-sponsors.

Mr. TOOMEY. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) for yielding me the time and also thank the gentleman for recognizing my efforts in the area of Medicare regulatory reform and for inviting me to join in with the Committee on Energy and Commerce in developing this terrific compromise legislation.

Since my first term in Congress, I have been working on Medicare regulatory reform to help alleviate some of the burdens that the health care providers carry when dealing with Medicare's bureaucracy. We need to give health care providers due process rights so they are not treated like criminals when they make honest mistakes. We need to make billing procedures easier for providers to understand and comply with and reduce the huge volume of paperwork that staff have to contend with.

This is important so health care providers can spend more time caring for their patients and less time dealing with bureaucracy. This bill addresses these problems. It is a step in the right direction, but it is a modest step. We need to do more. For instance, we need profound Medicare reform. As long as we have a Medicare bureaucracy that enumerates, regulates, and prices every conceivable medical procedure, we will continue to have enormous costs and inefficiencies in complying with these staggering regulations. But we cannot wait until we fully overhaul Medicare to provide the significant regulatory relief of this bill.

Mr. Speaker, I thank my colleagues who made this bill possible: the gentlewoman from Nevada (Ms. BERKLEY), the gentlewoman from Connecticut (Mrs. JOHNSON), the gentleman from California (Mr. STARK), the gentleman from California (Chairman THOMAS), the gentleman from New York (Mr. RANGEL), the gentleman from Michigan (Mr. DINGELL), the gentleman from Florida (Mr. BILIRAKIS), and the gentleman from Ohio (Mr. BROWN).

I also thank some staff members, Gary Blank, formerly of my staff, Kelly Weiss, currently with my staff, and Pat Morrisey of the commerce staff, in particular.

Mr. Speaker, we take a big step forward today. I hope the same combination of the bipartisan group that worked on this bill can come back next year and do more work for health care providers and for their patients; but in the meantime, I urge my colleagues to pass H.R. 3391 and give the health care community some of the regulatory relief that they need and deserve.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I rise today in support of the Medicare Regulatory and Contracting Reform Act. The legislation makes a number of important changes to the way that Medicare does business, and it comes not a second too late.

For years we have been hearing from doctors and providers who complain that they are spending more time dealing with Medicare paperwork than they are treating patients. They express frustration where simple mistakes escalated into full-fledged investigations, where well-intentioned providers were penalized and accused of defrauding the system, and insufficient appeals process made it difficult for providers to make their case. Many are ready to stop treating Medicare patients altogether.

The Committee on Energy and Commerce passed legislation earlier this year that addresses many of these issues and would have made improvements in the Medicare system. Working with the Committee on Ways and Means, we were able to come up with a consensus bill that addressed the problem and makes the Medicare program more navigable for our Medicare providers. This legislation streamlines key Medicare processes so that providers are not trapped in a maze of confusing regulations.

It improves provider information and education so that doctors know who to call and what to do when they have trouble with a claim. The legislation also reforms the contracting system by giving the Secretary greater flexibility in selecting contractors, assigning contractor functions, and permitting competitive contracting.

There are many significant changes in the bill that will improve the Medicare system for providers and beneficiaries alike, and I support the legislation. I urge my colleagues to support this legislation.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I rise today in strong support of H.R. 3391. I commend it to all Members of this body, and I hope every Member will vote for this bill. No doubt the outcome of this vote will be noted by the body across the way, and it is important that we vote for something that is needed so badly.

Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN). And a great deal of credit and thanks should go to the Committee on Ways and Means, especially to the gentlewoman from Connecticut (Mrs. JOHNSON). On the commerce staff, I thank Pat Morrisey. He put up with a lot to get us here, and Erin Kuhls, Julie Corcoran, and

Bridgett Taylor. They worked so hard to get us to where we are today.

Many Members have mentioned the good things that are in this bill. There are a lot of good things. I particularly would like to highlight the benefit that will be made available to patients for them to actually know if Medicare will cover a benefit that is a covered benefit. That is called preauthorization or predetermination, and probably in the end there is not much more in this bill that will be more important to the quality of care for Medicare patients to actually get treated.

But I note, as the gentlewoman from Connecticut (Mrs. JOHNSON) has said, that this is a first step. I hope we will all recognize that, and I would like to have a colloquy with the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from Florida (Mr. BILIRAKIS); and I will ask both the question at the same time.

Although many good things have been done in this bill, this is a first step and I want to be part of working these two committees together next year and I would like to hear from both Members. Can we plan to move forward next year?

Mrs. JOHNSON of Connecticut. Mr. Speaker, will the gentleman yield?

Mr. NORWOOD. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I can guarantee the gentleman that we will work together next year. We learned a lot this year. We solved some problems that we can understand. We laid aside what we could not understand. There is lots more work to be done to make Medicare a smart and efficient program.

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

Mr. NORWOOD. I yield to the gentleman from Florida.

Mr. BILIRAKIS. Mr. Speaker, as the gentleman knows because he was in the room last week, I put my life on the line in terms of a question that was asked, and the gentleman from Louisiana (Chairman TAUZIN) did, too; not the chairman's life, my life, on the line.

I will not go quite that far this time around, but I feel very strongly that this is a first step. There is a tremendous amount of work to be done.

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

Mr. TAUZIN. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. GANSKE).

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

Mr. Speaker, there is a provision that many have spoken of already that actually was something that I brought up and proved to be one of the more difficult things to work out between the two committees and that was on the predetermination of benefits.

As a physician in the earlier 1990s when I was taking care of Medicare patients, sometimes we would do a procedure where it might or might not be considered medically necessary by Medicare. All that we wanted was to know whether Medicare would cover this or not. So at that time the data could be gathered together, send in the physical exam and tests, and Medicare would give their opinion. Then they stopped doing that. I think it scared a lot of patients from not having medically necessary procedures.

Mr. Speaker, that has been worked out in this bill. I thank the members of both committees and both parties for working on this. I think this will be a big improvement for patients.

Mr. TAUZIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I rise in support of the Medicare Regulatory and Contracting Reform Act. I would like to express my appreciation to the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Florida (Mr. BILIRAKIS), the gentlewoman from Connecticut (Mrs. JOHNSON), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Ohio (Mr. BROWN) for their assistance in working on the concern of dentists who often file Medicare claims even though the dental services are not covered by Medicare.

The provision in the bill seeks to help reduce the paperwork burden on dentists and expedite payment for services from appropriate sources of that payment. In addition, I am grateful that language can be worked out that will assist the medical device manufacturing community, enhancing the communications and cooperation between the Food and Drug Administration and the Centers for Medicare and Medicaid Services. This is an excellent bill, and I urge its passage.

Mr. CRANE. Mr. Speaker, I rise today in support of the Medicare Regulatory and Contracting Reform Act of 2001. This bipartisan legislation is the product of months of negotiations with the Center for Medicare and Medicaid Services (CMS), Medicare providers, beneficiaries, and the House Committees on Ways and Means and Energy and Commerce.

This legislation is a first step in ensuring that the Medicare program delivers quality care to Medicare beneficiaries. Today, the Medicare program has more that 110,000 pages of regulations governing it. This bill begins to finally address how to hold CMS accountable for its regulations and the costs they impose.

The Medicare Regulatory and Contracting Reform Act creates a more collaborative, less confrontational relationship between providers and CMS. It takes steps to decrease the amount of complex and technical paperwork that is currently required so that providers will be able to spend more time delivering care to patients rather than filling out and filing federal forms. Finally, H.R. 3391 streamlines the regulatory process, enhances education and technical assistance for Medicare providers.

I was also pleased to see inclusion of a provision to prohibit group health plans from requiring a Medicare claims determination for dental benefits that are specifically excluded from Medicare coverage as a condition of making a determination for coverage under the group health plan. This requirement to me does not serve any purpose other than the filing of needless paperwork and further delay payment to the dental provider. This provision ensures that dentists do not have to submit claims to the Medicare program (and thus enroll in the Medicare program) when the services they are providing are clearly those that are categorically excluded from coverage.

I urge my colleagues to join me in support of this legislation.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of H.R. 3391, the Medicare Regulatory and Contracting Reform Act. As a physician in private practice for more than 20 years, I wholeheartedly applaud the work of the Ways and Means Committee and the Energy and Commerce Committee in moving legislation which lifts many of the burdens placed on physicians by the Medicare program and allow us to put our patients first.

Mr. Speaker, I can't tell you the number of times over the four and a half years that I have been a member of this body that I have heard horror stories from providers in my district regarding the cumbersome and burdensome Medicare billing process. They only serve to remind me of my personal experience in over 21 years of practice. Whether it is undue delays in receiving payments or repeatedly questioning information that was already provided, the current Medicare system treats physicians as suspects and requires that we spend nearly half of our time on needless paper work. It further makes hard working providers the first targets for fee reductions, repudiating their long years of training and hard work.

I applaud the authors of this legislation, Congresswoman NANCY JOHNSON and PETE STARK of the Ways and Means Committee, as well as Representatives BILIRAKIS, SHERROD BROWN, BILLY TAUZIN and my friend JOHN DINGELL for their support of doctors and the patients that they serve. Indeed, Mr. Speaker, no less than the General Accounting Office documented the statements that I can personally attest to regarding the difficulties of dealing with the Medicare program, pointing out that Medicare is a complicated program requiring endless directives and long explanations and articles which are necessary to explain facet after facet.

I urge my colleagues to support this badly needed bill which is but a first step in addressing what are myriad problems with this important health insurance program.

Mr. SHADEGG. Mr. Speaker, I rise today to support the Medicare Regulatory and Contracting Reform Act. Since I have been in Congress, I have constantly heard from hospitals and physicians about the guessing game they must play in order to be compliant with Medicare regulations. The paperwork that providers must complete both for private insurance and for Medicare is overwhelming them. Where twenty years ago, it was uncommon to

have more than one administrative person working in a physician's office, today it seems to be the norm to have multiple employees handling claims. Like a punch-drunk fighter, our nation's health care providers are dizzy from the barrage of notices, guidance, and issuances from Medicare describing ever-changing policies and regulations. Worse yet, many of these providers approach the billing process with trepidation. Fearful that they may be audited or have payments withheld, many physicians downcode so as to reduce their potential exposure even though they legitimately deserve reimbursement for a higher code. Moreover, a simple, honest mistake, providers fear, will result in harsh penalties and send them into a regulatory spiral, thus taking them away from their patients. This is one of the reasons I was a cosponsor of the Medicare Education and Regulatory Fairness Act and support the bill on the floor today. H.R. 3391 provides important reforms of the Medicare system to streamline Medicare's regulatory process, ease paperwork burdens, and improve Medicare's responsiveness to beneficiaries and health care providers.

I am particularly pleased that H.R. 3391 includes provisions aimed at improving the functioning of the Emergency Medical Treatment and Active Labor Act, better known as EMTALA. While a well-intended provision to ensure that patients coming to hospital emergency departments are not shipped from hospital to hospital or "dumped," EMTALA is now serving as an impediment to hospital emergency department access, the exact opposite of what the original legislation was intended to do. The provisions I included at the Full Committee markup include recreating the EMTALA task force, something suggested not only in the January 2001 Inspector General's report, but also in the June 2001 GAO report. Physicians and providers are crying out for clarification and guidance on how to comply with the myriad, confusing EMTALA regulations and this task force will be charged to work synergistically to make the regulations manageable. In addition, the bill on the floor today implements another suggestion from the Inspector General, mandatory peer review organization. Under current law, a peer review organization must review any EMTALA deficiency or violation involving medical treatment before a civil monetary penalty can be levied, but the same does not apply to those providers facing removal from the Medicare program. The Medicare Regulatory and Contracting Reform Act will restore equity by requiring PRO review in the Medicare conditions of participation. Last, the bill will require the Centers for Medicare and Medicaid Services to notify providers directly when an EMTALA investigation is closed.

Mr. Speaker, these are important provisions to address a complex situation—emergency department overcrowding—and I thank Chairman TAUZIN for working with me in Committee as well as members of the Ways and Means Committee as we merged the two committee bills.

Mr. UPTON. Mr. Speaker, on behalf of all of the physicians and other health professionals in my District who provide care to Medicare beneficiaries and on behalf of the beneficiaries themselves, I rise to express my strong support for H.R. 3391, the Medicare Regulatory and Contracting Reform Act of 2001. I am honored to be an original cosponsor of this bipartisan, common-sense bill that will provide much-needed regulatory relief and greater program fairness, clarity, and transparency.

From what I have been hearing for years now in my meetings with Medicare beneficiaries and health care providers across my District, the current program is simply not working well. Beneficiaries and health professionals often don't know if services will be covered, leading some beneficiaries to forgo needed care. It can take months—and mounds of paperwork—just to get paid for health care services. I've seen the inch-thick paperwork that can be required just to document one claim.

Doctors and other health professionals feel that they are practicing with a sword over their heads. The rules and regulations are so complex that the Medicare intermediaries and carriers all too often give conflicting advice and guidance. Regulations and guidance change so frequently that it is difficult to know what the rules are at any one time, and what they will be tomorrow. Making a simple mistake in coding or misunderstanding a program requirement, health professionals fear, could well open to a fraud charge. If a claim is denied, it can take several years to go through the current process for appealing that denial. Doctors are so frustrated with the program that they are retiring early, and some beneficiaries are having a hard time finding doctors willing to take them as patients once they turn 65.

The Medicare Regulatory and Contracting Reform Act will give the Centers for Medicare and Medicaid Services the direction and flexibility needed to streamline the regulatory and contracting processes. It will provide strong incentives for intermediaries and carriers to be responsive to beneficiaries and health professionals. It will provide additional resources for provider education. One provision that could be particularly helpful for both beneficiaries and providers will test the effectiveness of placing Medicare experts in local Social Security offices so that questions and concerns can be addressed in a timely, accurate way. And when disputes do arise, Administrative Law Judges specifically trained in Medicare law and regulation will hear the cases.

These are just a few of the reforms in this comprehensive, much-needed bill.

Mr. BENTSEN. Mr. Speaker, I rise today in strong support of the Medicare Regulatory and Contracting Reform Act (H.R. 3391), legislation which would reform our Medicare regulatory and contracting system. For too long, Medicare providers have encountered problems in resolving claims under the Medicare program. Today, many Medicare providers submit claims to their Medicare contractor who do not provide timely resolution for these claims. In addition, many Medicare providers face lengthy appeals which result in delayed reimbursements. This legislation would not only provide necessary regulatory relief to Medicare providers, but it would also ensure that Medicare contracts are competitively bid so that taxpayers are paying the lowest price for these services.

In order to help with better compliance by Medicare providers, this legislation would require that Medicare regulations should be promulgated only once a month. This bill requires the Department of Health and Human Services (HHS) to develop time lines for Center for Medicare and Medicaid Services (CMS) rules. As a result, Medicare providers would know when to expect changes in the Medicare system and would be able to plan for such changes. This measure prohibits regulations from being applied retroactively and requires that any substantive change in regulations from being applied retroactively and requires that any substantive change in regulations should not become effective until 30 days after the change has been announced. The bill also protects providers by ensuring that they cannot be sanctioned if they followed written guidance provide by HHS or by a contractor. Providers would also be eligible to call a new Medicare Ombudsman to assist Medicare providers with advice about Medicare regulations and rules.

To ensure that contractors are more accountable to Medicare providers, this bill encourages HHS to competitively bid contracts for Medicare claims. This new procedure would eliminate the current system where health care providers can nominate entities to become Medicare contractors. We should eliminate this conflict of interest and would ensure that taxpayers receive the best value for this program.

This bill allows providers to seek a hardship designation if they have received overpayments. Under this program, Medicare providers and suppliers could request to make repayments over a period of six months to three years if their obligation exceeds 10 percent of their annual payments from Medicare. In extreme circumstances, Medicare providers could apply for a five-year repayment schedule. Many medical small businesses which depend on Medicare for payments have requested this flexibility so that they continue to provide services to Medicare beneficiaries.

This measure also includes several provisions related to physician payment fees. Under current law, these Medicare physician fees will be reduced by 5.9 percent effective January 1, 2001. For many physicians, this significant drop in Medicare payments will impose a financial burden and may result in fewer physicians being willing to participate in this program. This bill requires the General Accounting Office (GAO) to report of Congress on the conversion factor used to calculate physician payments and to make recommendations on how to reform it within 12 months. This GAO report would also examine whether the current sustainable growth formula for physician fees should be reformed I have been contacted by many physicians in my district who would be adversely impacted by this new fee schedule and I am committed to working to change these payments in a timely manner so that Medicare payments more accurately reflect the true cost of providing care for Medicare patients.

As the representative for the Texas Medical Center, where many Medicare providers work, I urge my colleagues to support H.R. 3391 that will reform the Medicare program.

Mr. CARDIN. Mr. Speaker, I rise today in strong support of the Medicare Regulatory and Contracting Reform Act of 2001. This bill is

the result of months of collaborative efforts between Democrats and Republicans, between the ways and means and the Energy and Commerce Committees. In other words, it was developed the way that responsible Medicare legislation should be-in a bipartisan and deliberative manner.

For too long, Congress has ignored the valid concerns of one of Medicare's most important assets—its health care providers. By easing regulatory burdens on physicians and allied health professionals, and by modifying the provider appeals process, this legislation speaks to some of the foremost concerns that have been brought to Congress by the dedicated health care professionals who participate in the Medicare program.

This bill also provides important patient protections for beneficiaries—it guarantees them access to a truly independent external review process; it improves the advance beneficiary notice (ABN) process so that seniors may know in advance of receiving care whether the services will be reimbursed by Medicare; and it establishes a Beneficiary Ombudsman to assist seniors in navigating the Medicare program.

As the Medicare+Choice program enters its fifth year, and enrollees across the country are witnessing their benefits reduced and their premiums increased, this bill contains an important beneficiary protection. It delays by one year the implementation of the enrollee ''lock-in'' period, which will enable many seniors to move between HMOs as efforts are made to stabilize this program.

The 1997 Balanced Budget Act imposed $1500 caps on physical, speech-language, and occupational therapy. I have long supported replacing these caps with a rational payment mechanism. Congress has acted each year to delay these caps, which discriminate against the most frail beneficiaries. However, it is a waste of energy and resources for providers to return to Congress annually to seek a one-year moratorium on these caps. Medicare should implement a rational payment system that provides seniors with the level of care they need. We passed a law requiring the Secretary of Health and Human Services to establish a mechanism for assuring appropriate use of services and to study use of these services by last June. This bill directs the Secretary to produce these overdue reports so that Congress can enact sound reimbursement policy for outpatient therapy.

Mr. Speaker, H.R. 3391 is a shining example of how Congress can act to greatly improve the Medicare program for beneficiaries and providers. I am pleased to be an original cosponsor of this legislation and I urge my colleagues to support it this evening.

Mr. ENGLISH. Mr. Speaker, I rise in strong support of H.R. 3391, The Medicare Regulatory Reform Act of 2001. I urge my colleagues to vote in favor of this important legislation.

The Occupational Safety and Health Administration (OSHA) estimates that each year 5.6 million workers in the health care industry are exposed to blood-borne diseases because of needlesticks. OSHA studies have shown that nurses sustain the majority of these injuries and that as many as one-third of all sharps injuries have been reported to be related to the disposal process.

In addition, the Centers for Disease Control estimates that 62 to 88 percent of sharps injuries can potentially be prevented by the use of safer medical devices. However, needlestick injuries and other sharps-related injuries, that result in occupational blood-borne pathogens exposure, continue to be an important public health concern.

H.R. 3391, The Medicare Regulatory Reform Act of 2001, includes a provision that will reduce needlestick injuries. This provision requires public hospitals, not otherwise covered by the OSHA rules, to meet the administration's standards which require employers to implement the use of safety-designed needles and sharps. The requirements will be established under Medicare statute and enforced through monetary fines similar to fines under OSHA. Violations would not cause hospitals to lose Medicare their eligibility.

I also would like to take this opportunity to thank Subcommittee Chairwoman NANCY JOHNSON for not only including this provision to reduce needlestick injuries in the Medicare regulatory reform bill, but also for her many years of hard work on this issue. She has long been a champion of requiring public hospitals to use safety-designed needles and sharps. I was pleased to join her and Mr. STARK in this important effort.

We have the technology to provide better protections for our healthcare workers. A vote in favor of this legislation ensures that hospitals are using state-of-the-art equipment while significantly reducing the risk to healthcare workers.

Mr. KLECZKA. Mr. Speaker, I am pleased that the House of Representatives is considering the Medicare Regulatory and Contractor Reform Act of 2001 (H.R. 3391) on the suspension calendar today.

This important, bipartisan legislation will address the very real and practical regulatory concerns health care providers, contractors, and beneficiaries are currently facing with the Medicare program. H.R. 3391 helps providers and beneficiaries better understand the complexities of Medicare, while at the same time protecting the Federal Claims Act and maintaining strong efforts to eliminate waste, fraud and abuse. It is my hope that this legislation will allow providers to focus their attention on patients, and not bureaucracy.

Of particular importance to me was the inclusion of language I offered during the Ways and Means Health Subcommittee markup that would establish a new Medicare Beneficiary Ombudsman. H.R. 2768, as originally introduced by the Ways and Means Committee, had included language requiring the U.S. Department of Health and Human Services (HHS) Secretary to appoint a Medicare Provider Ombudsman to provide confidential assistance to physicians and practitioners regarding complaints and grievances. I believed this point-of-contact should be extended to Medicare beneficiaries, who also have complex questions and receive conflicting guidance. I am pleased that my suggestion to create a comparable Beneficiary Ombudsman to serve as a voice for beneficiaries within the Centers of Medicare and Medicaid Services (CMS) was included. This provision should enable the Agency to better anticipate and address beneficiary needs.

Furthermore, I requested language in Title II of the Act that would eliminate the provider nomination provisions for contracting purposes. This provision effectively waives the prime contracts that the Centers of Medicare and Medicaid Services (CMS) currently has with national organizations and permits CMS to contract directly with entities during the transition period prior to the October 1, 2003 effective date without regard to competitive bidding procedures.

I would like to express my sincere appreciation to both Ways and Means Health Subcommittee Chairwoman JOHNSON and Ranking Member STARK, and their respective staffs, for being so accommodating and working together to create responsible, well-targeted regulatory legislation.

I urge my colleagues to support H.R. 3391, and I hope the Senate will work quickly to pass this legislation prior to the end of this Congressional Session.

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

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

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentlewoman from Connecticut (Mrs. JOHNSON) that the House suspend the rules and pass the bill, H.R. 3391.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TAUZIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

AMENDING INTERNAL REVENUE CODE TO SIMPLIFY REPORTING REQUIREMENTS

Mr. HULSHOF. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3346) to amend the Internal Revenue Code of 1986 to simplify the reporting requirements relating to higher education tuition and related expenses.

The Clerk read as follows:

H.R. 3346

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

SECTION 1. SIMPLIFICATION OF REPORTING REQUIREMENTS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.

(a) AMENDMENT RELATING TO PERSONS REQUIRED TO MAKE RETURN.—Paragraph (1) of section 6050S(a) of the Internal Revenue Code of 1986 (relating to returns relating to higher education tuition and related expenses) is amended to read as follows:

''(1) which is an eligible educational institution which enrolls any individual for any academic period;''.

(b) AMENDMENTS RELATING TO FORM AND MANNER OF RETURNS.—Subsection (b) of section 6050S of such Code is amended as follows:

(1) Paragraph (1) is amended by inserting ''and'' after the comma at the end.

(2) Subparagraph (A) of paragraph (2) is amended to read as follows:

''(A) the name, address, and TIN of any individual—

''(i) who is or has been enrolled at the institution and with respect to whom transactions described in subparagraph (B) are made during the calendar year, or

''(ii) with respect to whom payments described in subsection (a)(2) or (a)(3) were made or received,''.

(3) Paragraph (2) of section 6050S(b) of such Code is amended by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(4) Subparagraph (B) of section 6050S(b)(2) of such Code, as redesignated by paragraph (3), is amended to read as follows:

''(B) the—

''(i) aggregate amount of payments received or the aggregate amount billed for qualified tuition and related expenses with respect to the individual described in subparagraph (A) during the calendar year,

''(ii) aggregate amount of grants received by such individual for payment of costs of attendance that are administered and processed by the institution during such calendar year,

''(iii) amount of any adjustments to the aggregate amounts reported by the institution pursuant to clause (i) or (ii) with respect to such individual for a prior calendar year,

''(iv) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year by a person engaged in a trade or business described in subsection (a)(2), and

''(v) aggregate amount of interest received for the calendar year from such individual, and''.

(c) CONFORMING AMENDMENTS.—Subsection (d) of section 6050S of such Code is amended—

(1) by striking ''or (B)'', and

(2) in paragraph (2), by striking ''subparagraph (C)'' and inserting ''subparagraph (B)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or assessed after December 31, 2002 (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. HULSHOF) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri (Mr. HULSHOF).

GENERAL LEAVE

Mr. HULSHOF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3346.

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

There was no objection.

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

Mr. Speaker, education is the great equalizer, and getting a college education remains a part of the American dream. Yet affording that education at an institution of higher learning can be a nightmare for a prospective student or that student's family.

According to a 1997 GAO report, since the early 1980s college tuition has increased by 234 percent, which of course far outpaces the cost of living or any rise in family income. Some students balance their class work with part-time jobs, others rely on financial aid packages or scholarships. This body, Mr. Speaker, has attempted in the past to ease the financial burden. Back in 1997 Congress passed and former President Clinton signed into law the Taxpayer Relief Act of 1997. This legislation created the Hope Tax Credit as well as the Lifetime Learning Tax Credit to help families afford the cost of sending a child to college.

Since then we have built on our work. We have added to the success of the 1997 bill. We have expanded education savings account. We have made prepaid tuition plans more attractive, and we have expanded the student loan interest deduction.

When the merits of the Hope Credit and the Lifetime Learning Credit were being considered back in 1997, the potential compliance costs for colleges and universities were raised as a potential drawback. In fact, I recall and probably the gentleman from Maryland (Mr. CARDIN) may recall the particular hearing we had in front of the Committee on Ways and Means and the former Treasury Secretary was appearing before us, and I asked Mr. Rubin about the compliance cost. We had been alerted to some potential substantial administrative burdens that colleges and universities were going to have to undertake, even while implementing this worthwhile legislation. I recall the answer that Mr. Rubin gave; he felt it would be a small, insignificant cost.

□ 1745

In fact, I think he said it would be the cost of a pencil and a piece of paper. Well, as C-SPAN was covering that hearing live that day, the phone lines in our congressional office began to light up as school administrators from around the country began to call, again with this concern about this burden, this compliance cost that they would have to undertake if, in fact, we enacted the HOPE scholarship or the HOPE tax credit, as well as the lifetime learning credit and, unfortunately, their premonition has been borne out. It has been clear that our Nation's institutions of higher learning have faced significant increased administrative burdens, which brings us today.

The bill before us, H.R. 3346 that has been introduced by the gentleman from Illinois (Mr. MANZULLO), accomplishes the goal of reducing administrative burdens on schools, while retaining the integrity of the HOPE and lifetime learning credits. We accomplish this by modifying how tuition amounts are reported and also eliminating an unneeded reporting requirement in current law that colleges and universities provide the Internal Revenue Service with the name, address, and taxpayer identification number of taxpayers who could claim students attending the school as dependents. While these changes may seem minor, I can assure my colleagues that they will greatly reduce the administrative burdens on our colleges and universities. I urge this body to be supportive of H.R. 3346.

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

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

First let me thank the gentleman from Missouri (Mr. HULSHOF) for bringing forward this legislation. I agree with him that this is an important bill that helps us move forward on making it easier for families to afford college education and reducing the administrative burden of tax laws. I also want to congratulate the gentleman from Illinois (Mr. MANZULLO) for bringing forward this bill. It is his legislation. I thank him for putting together a sensible bill that will reduce the costs of compliance without raising the level of potential abuse. That is what we all try to do.

First, Mr. Speaker, this bill makes it easier for families to be able to have the HOPE scholarship and lifetime learning tax credit which this body, this Congress, passed in 1997, that allows up to a $1,500 tax credit for higher education expenses. The gentleman from Missouri (Mr. HULSHOF) is correct. Education is a very important part of the American dream. We want to make it easier for American families to afford higher education. We want all Americans who can benefit from higher education to be able to afford higher education for their children, and the HOPE scholarship and lifetime learning tax credit carries out that commitment.

Mr. Speaker, many times Congress, in well-intended legislation, causes burdens to the private sector that are not really necessary. We are well intended in what we think is necessary in order for compliance. I remember working with the gentleman from Cincinnati, Ohio (Mr. PORTMAN), on IRS reform, and one of our principal objectives was to make the Tax Code easier to understand and to make it simpler for people to comply with the laws that we passed. This bill does that. This bill makes it easier for compliance.

The first part on reporting, the current law makes it difficult for some colleges to be able to report the dollar amount that is impacted by the credit. We make it a little bit easier by allowing the college to report the amount of expenses or the amount that is paid. It is a simple change, but it allows a lot of colleges to allow their current computer program to be adequate to deal

with the reporting needs of the Federal Government, rather than requiring them to change their entire system in order to meet the needs of the tax credit. That is common sense.

The second is the reporting of the taxpayer identification number. We already have the taxpayer identification number of the student, and that is all we really need because we can match that, and the IRS has indicated they can match that, rather than requiring a reporting number of the person who claims the child, adding to the complexity again, and adding to information that is not readily available by the college and university that is reporting the information to the government.

So the changes that are made in the legislation are common sense. They make it easier for the colleges and universities to comply with reporting requirements. It does not add to the potential abuse of tax law and it makes it easier for the law that Congress passed in 1997 to be utilized by American families. It is a bipartisan bill. It is a bill that I hope every Member of this body will support.

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

Mr. HULSHOF. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. MANZULLO), the author and original sponsor of this legislation.

Mr. MANZULLO. Mr. Speaker, of the many Federal regulations with which colleges and universities are required to comply, one of the most onerous is that associated with the HOPE scholarship and lifetime learning tax credit. Originally enacted as part of the Taxpayer Relief Act of 1997, the tax credits were intended to give parents back more of their hard-earned money, up to $1,500 for the first 2 years of college, so that they could better afford to send their children to school.

While we were successful in providing this tax relief for students and families, we discovered an unintended consequence: an unfunded mandate burdening colleges, trade schools, community colleges, and universities in the form of a reporting requirement administered by the IRS.

I became aware of this regulatory issue during the fall of 1997. I was discussing several concerns with Dr. La Tourette, president of Northern Illinois University. While talking about the merits of the HOPE scholarship, he dropped the bombshell on me and informed us of the new Federal requirements forcing all 6,000 institutions of higher education in this country to collect unprecedented information on their students and disseminate that information to the IRS.

I knew compliance with the reporting requirement would be expansive and expensive and would ultimately be borne by the very families that they were trying to help with the HOPE scholarship program. Both large and small institutions have been hit hard by the reporting requirement. The cost to schools to implement and abide by these regulations will soar into the hundreds of millions of dollars. And, of course, they will be passed on to the consumers of education, which are the parents and the students.

Since my conversation with Dr. La Tourette, I have worked with members of the higher education community and with Commissioner Charles Rossotti of the IRS to simplify the reporting requirements and ease the burden of the regulations on the colleges and universities of this country. Today, I am proud to say that H.R. 3346 is the product of a partnership that evolved between the IRS, the Treasury Department, the higher education community, and myself, and this can serve as a model for how we can positively impact higher education in the future by working together.

Specifically, while H.R. 3346 maintains the reporting requirement, the bill eliminates certain elements of the law such as reporting a third party's Social Security number, and changes others, such as allowing schools to report the amount students are billed or the amount they are paid. It is my hope that the simplifications instituted as part of H.R. 3346 will make the reporting significantly easier on colleges and universities.

Early estimates from Northern Illinois University predict that as a result of the passage of this bill, this school could avoid a one-time cost of approximately $90,000. This includes the costs of program computer systems to accommodate requirements included in the original legislation that are not included in the pending legislation, as well as what it would cost initially to implement Social Security number reporting of the taxpayer claiming the student as a dependent.

Additionally, the university would have incurred ongoing costs on an annual basis for solicitation and data entry of the student-reported information, and those costs are estimated at $30,000 a year. The University of California's system expects to save $1 million in the first year alone as a result of H.R. 3346. Overall, the savings the schools will attain as a result of this legislation are very significant. When we consider that most institutions of higher education would incur costs of similar proportion, the impact is particularly traumatic.

I would be remiss if I did not take a moment to heartily thank Commissioner Rossotti with whom we met on no less than three different occasions in order to fashion this legislation. I also want to thank Curt Wilson and Beverly Babers of the staff. I would like to thank Northern Illinois University, both former president Dr. La Tourette and current president Dr. John Peters and Kathe Shineham from the school for their insights and efforts as we have worked to craft this legislation. This bill is a memorial to Dr. Ruth Mercedes-Smith, former president of Highland Community College, who was killed in a car accident several months ago. Her support for our work was invaluable. Also, Dr. Chapdelaine of Rock Valley Community College and Dr. LaVista of McHenry Community College, and the National Association of Colleges and Universities Business Offices. All of these groups worked tirelessly together in order to craft the legislation. It took us 4 years to do it. During that period of time, the IRS worked with us, they withheld the implementation of these regulations because they knew that the goal was worthy. Lastly, I want to thank Sarah Giddens of our staff who, for 4 years, tirelessly worked on this legislation, dogging it dot by dot, i by i, in the hundreds of meetings, literally, that she had and the hours that she poured into this piece of legislation.

Mr. Speaker, it is a great piece of legislation. Instead of spending money on regulatory compliance, the schools can spend that money doing what they do best, and that is educating the kids.

Mr. CARDIN. Mr. Speaker, it is my pleasure to yield 5 minutes to the gentlewoman from Florida (Mrs. THURMAN), a distinguished member of the Committee on Ways and Means.

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding me this time, who may have to watch my university play in the Orange Bowl. We were just discussing that over here. But I want to say to the gentleman from Illinois (Mr. MANZULLO) how welcome this piece of legislation is. I do not know if my colleagues are reading what is happening in Florida right now, but the legislature is in a special session specifically for the purpose of cutting their budgets. The headline news in Florida is that the State universities were hit with cuts in excess of $100 million, while community colleges must deal with $33 million.

As the gentleman from Missouri (Mr. HULSHOF) has said, one of the things that makes our country great is the ability for us to have an educated population. What we did in 1997 in providing the $1,500 tax credit for the HOPE scholarship and the lifetime learning tax credits I was hoping would not be taken away from by the administrative nightmares that they might be facing, as my colleagues can imagine, also based on the numbers that we heard of the increased tuition. I do not know where those monies are going to come from when they cut them, but certainly we did not want them to have to be raised in tuition. With the gentleman's help, we are going to be able to see this $1,500 and the bureaucracy cut

so that our universities and our community colleges are not going to have to be hiring new staff and setting up new computer programs, so this might help them in looking at their overall budgets if we get this passed and through over in the Senate.

□ 1800

I just want to say that, in conclusion, because of the work and the people that the gentleman has recognized, this is a work that the higher education community has asked for. They have asked for the greater flexibility in reporting information to the IRS about the education tax credits. I believe that H.R. 3346 provides that requested flexibility through the simplification of the Tax Code.

I might just say, for all of us who serve on the Committee on Ways and Means, that it is always a pleasure for us to be able to come to the floor and talk about the idea that we are simplifying, and not adding to, the tax codes in this country.

I think it is something that the American people want us to be doing, have suggested that we do; and as we can see, as we work in a bipartisan manner, in fact we can provide not only the dream for our students and to help our universities, but we can also help the taxpayers of this country. So we thank the gentleman for his leadership.

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

Mr. Speaker, I have a few concluding remarks.

First, I want to amplify a point that my friend, the gentleman from Maryland (Mr. CARDIN), made regarding the situation regarding the computer systems.

The point is that as educational institutions begin to raise some concerns that these new reporting requirements would require their schools to completely revamp their computer systems at a substantial cost, these institutions noted that complying with the law's requirement to report tuition payments received would be difficult, and that because schools keep a running total of the payments that they receive from students, in other words, payments are not applied separately to tuition, but instead are applied to a student's total outstanding balance that may include room and board, books, student fees for recreational activities, or other costs, and, moreover, payments are not applied to any particular academic year. As a result, these institutions would have had to change their accounting and computer systems dramatically to make them compatible with reporting requirements. We have undertaken, instead, a change in those reporting requirements so those colleges and universities will not have to undertake that substantial cost.

As a final comment, I would just advise my colleagues that in the 1999 calendar year, the Hope scholarship credit was claimed by 3,334,000 students; the lifetime learning tax credit was claimed for 3,575,000 college students.

Clearly, the work we have done here in Congress back in 1997 has taken a large step forward as far as making higher education more affordable. I think we are taking an additional step forward for the administrators of these colleges and universities by reducing their burden.

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

Madam Speaker, let me just concur with my friend, the gentleman from Missouri (Mr. HULSHOF).

Also, I would like to compliment the Internal Revenue Service. We do not often say that. But they have worked with us to implement, as the gentleman from Illinois (Mr. MANZULLO) has pointed out, this part of the code in a taxpayer-friendly way. If we look at the 1098–T form and 8863 form, I think we will find both of those forms are easy for the taxpayer to use.

They worked with us to modify the law in regard to the unnecessary burden upon the institutions of higher education. As a result, we have had, I think, the right spirit in simplifying the Tax Code to carry out the purposes of Congress.

This legislation is important legislation, and I urge my colleagues to support it.

Mr. HULSHOF. Madam Speaker, I urge adoption of H.R. 3346, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 3346.

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

A motion to reconsider was laid on the table.

GERALD B.H. SOLOMON SARATOGA NATIONAL CEMETERY

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3392) to name the national cemetery in Saratoga, New York, as the Gerald B.H. Solomon Saratoga National Cemetery, and for other purposes.

The Clerk read as follows:

H.R. 3392

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

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Gerald Brooks Hunt ''Jerry'' Solomon of Glens Falls, New York, served in the House of Representatives for 10 terms, from January 3, 1979, to January 3, 1999, and during that service gained a reputation for being outspoken and tenacious in presenting his views on a wide range of issues.

(2) Congressman Solomon was born in Okeechobee, Florida, and grew up there during the Great Depression before moving to New York in 1945.

(3) Congressman Solomon enlisted in the United States Marine Corps at the onset of the Korean War and served in the Marine Corps for 8½ years on active and reserve duty.

(4) Before being elected to Congress in 1978, Congressman Solomon was a businessman in Glens Falls, New York.

(5) During his 20-year congressional career, Congressman Solomon served as the ranking Republican on the Committee on Veterans' Affairs, where he was recognized by the veterans community as one of its strongest advocates. Among his other accomplishments for veterans, Congressman Solomon spearheaded the effort to create the Cabinet-level Department of Veterans Affairs and successfully led a 15-year drive to establish the Saratoga National Cemetery in Saratoga, New York, where he is now interred.

(6) Congressman Solomon was also recognized for his efforts to promote pride, patriotism, and volunteerism, and when the Supreme Court ruled that laws prohibiting the burning of the United States flag were unconstitutional, Congressman Solomon was given the assignment to pass a constitutional amendment to prohibit desecration of the flag. The Solomon Amendment passed overwhelmingly in the House, but failed by one vote in the Senate.

(7) As chairman of the Committee on Rules of the House of Representatives, Congressman Solomon revamped the rules under which the House operates, abolishing proxy voting, opening all meetings to the media and the public, and making Congress subject to the same laws that the American people live under.

(8) During his congressional career, Congressman Solomon was the recipient of dozens of major awards from many national veterans organizations, including the coveted ''Iron Mike Award'', presented to him by the Marine Corps and Marine Corps League, and the Distinguished Citizen Award, presented to him by the National Congressional Medal of Honor Society for his legislative successes on behalf of the United States military and veterans issues.

SEC. 2. NAME OF THE NATIONAL CEMETERY IN SARATOGA, NEW YORK.

(a) NAME.—The national cemetery located in Saratoga, New York, shall after the date of the enactment of this Act be known and designated as the ''Gerald B.H. Solomon Saratoga National Cemetery''. Any reference to such national cemetery in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Gerald B.H. Solomon Saratoga National Cemetery.

(b) MEMORIAL.—The Secretary of Veterans Affairs shall provide for the placement in the national cemetery referred to in subsection (a) of a suitable memorial to honor the memory of Gerald B.H. Solomon and his service to the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in very strong support of H.R. 3392, a bill to name the National Cemetery in Saratoga, New York, after Gerald B.H. Solomon, who we all knew and loved as Jerry. This is a fitting honor and memorial to our former colleague, the distinguished chairman of the Committee on Rules.

I want to commend and thank the gentleman from Illinois (Speaker HASTERT) for introducing this important bill. I know how highly the Speaker thought of Jerry Solomon and valued his service to the House of Representatives. So it is a tribute in itself that the gentleman from Illinois (Mr. HASTERT), who, as Speaker, does not normally introduce legislation, has taken this very extraordinary step. I am grateful to have been afforded the opportunity to be an original cosponsor of H.R. 3392.

In addition to naming the cemetery for Jerry Solomon, this bill will also authorize the Secretary of Veterans Affairs to place a suitable memorial in the cemetery to honor his memory.

It is highly fitting that our distinguished colleague was laid to rest in the Saratoga National Cemetery because the cemetery itself owes its existence to Jerry Solomon. He worked tirelessly for this cemetery for 15 years to overcome obstacle after obstacle to its establishment. He promoted it in his town meetings, he pushed for timely completion of the environmental impact studies, he worked with members of the Committee on Appropriations to ensure that the money was appropriated for it, and overcame official indifference in the executive branch.

His unwavering determination, no matter how difficult an objective, manifested itself time and time again. I think it probably had much to do with his service in the U.S. Marine Corps; but also it reflected the kind of man that he was: he was tenacious, he was tough, and he was fair.

He enlisted, as I think many of my colleagues know, in the Marine Corps at the beginning of the Korean War and served for 8½ years on active duty and in the reserve. He is one of the few who was good enough to be a Marine; and of the many awards he received during his public service, among his most cherished were the Iron Mike Award from the Marine Corps League, and the Distinguished Citizen Award from the National Congressional Medal of Honor Society.

All of us, Madam Speaker, learned from the example of Jerry Solomon. I recall so well when he was the ranking Republican member of the Committee on Veterans' Affairs, again, he always put veterans first. He was always fighting to ensure that there was an adequate veterans budget, particularly in the area of health care. He believed that the VA was one of those commitments that, once we make it, that they had first dibs for every dollar that we would spend.

He was also one of the prime leaders in making sure that we had a cabinet level for the VA, so when it came to allocating scarce resources, that they would be there, the Secretary of Veterans Affairs would be there at the table fighting and fighting hard for veterans' benefits and for veterans' health care.

More recently, following his retirement after 20 years in Congress, President George Bush recognized Jerry Solomon's leadership and wisdom by appointing him to co-chair the Presidential Task Force to Improve Health Care Delivery for our Nation's Veterans.

Like everything else, he launched himself into this new endeavor with enthusiasm and commitment and actively served on that issue and on that commission until his final illness.

Madam Speaker, I had the honor of serving many years in the House with Jerry Solomon and in every case found him to be one of the most outspoken, straightforward, tenacious, and patriotic Members of Congress that this body has ever produced. He was a great man; and we honor him in a very modest way, much more could be done for this great man, by naming this important cemetery in his honor.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise today in remembrance of our distinguished colleague, Jerry Solomon, and in strong support of renaming the Saratoga New York National Cemetery as the Gerald B.H. Solomon Saratoga National Cemetery. It is a well-deserved honor for an outstanding public servant.

I want to thank the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), and the chairman of the Committee on Veterans' Affairs, the gentleman from New Jersey (Mr. SMITH), for bringing this bill to the floor today. I also want to recognize my colleague, the gentleman from New York (Mr. MCNULTY), for introducing a similar bill in the 105th Congress. I am sure he will be pleased by the bill, and I look forward to his remarks.

Throughout his 20-year term in this Chamber, Jerry Solomon demonstrated an unyielding commitment to the men and women who risked their lives for the safety and welfare of this Nation. As a strong advocate of America's military veterans, I appreciate his efforts over the years to improve their benefits and health care through substantive and proactive legislation.

Jerry grew up in New York State and attended Siena College and St. Lawrence University before serving in the United States Marine Corps from 1951 to 1952, and I very much appreciate the chairman's remarks about his affiliation with the Marine Corps. I had some disagreements with the gentleman from New York, and we never took it out in the committee room. So he was a gentleman, and he worked hard to leave a great impression on the people that he met on a day-to-day basis.

Earlier this year, the President appointed Jerry to lead the President's Task Force to Improve Health Care Delivery for our Nation's Veterans.

As an original cosponsor of this measure, I can think of nothing more appropriate than to rename this cemetery. Jerry was interested in this cemetery, which was in large part due to his 15-year personal commitment to establish this cemetery.

It was a privilege to work with Jerry Solomon on the Committee on Veterans' Affairs and on committee issues. I am proud that I am able to join my colleagues in offering this measure in tribute to a great American, Jerry Solomon.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. GILMAN), the distinguished dean of the New York delegation and chairman emeritus of the Committee on International Relations.

Mr. GILMAN. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I want to thank our Speaker, the gentleman from Illinois (Mr. HASTERT), for introducing this legislation designating the Saratoga National Cemetery after our good friend and former colleague, Jerry Solomon, and the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from New Jersey (Mr. SMITH), and the ranking minority member, the gentleman from Illinois (Mr. EVANS), for pursuing this measure and bringing it to the floor at this time.

H.R. 3392 is a fitting tribute to Mr. Solomon. It was due to his efforts on behalf of our veterans that the veterans cemetery at Saratoga was created and that the administration was granted cabinet-level status. As a Marine veteran, it is appropriate that we honor Jerry in this manner. Jerry fully knew the sacrifices our men and women in the Armed Forces face each and every day in defending our Nation from aggressors.

Madam Speaker, throughout the House, in the Senate, in New York State, around our Nation, overseas, many of us were deeply saddened last month to learn of the loss of our former colleague and good friend, Jerry Solomon. In New York State's capitol in Albany, Jerry was an assemblyman noted for his energy, determination,

and commitment. It was, therefore, no surprise to those of us who knew him when he subsequently brought those same dedicated traits to bear as a member of this body.

Jerry came to the House of Representatives in January of 1979, serving here for 2 decades diligently, meritoriously representing the constituents of the 22nd district in upstate New York. When Jerry came to the floor of this House, he was always ready to stand up vociferously for what he believed, especially when it came to our Nation's defense and our Nation's veterans.

Last month, upon learning of the passing of our former colleague, President Bush said that ''Jerry Solomon was a true patriot who will always be remembered as true to his creed, duty, honor, and country.'' The President's words remind us that as our military goes into battle against those who perpetrated the atrocities of the barbaric September 11 attack, our troops are relying on advanced weapons systems and technologies that Jerry Solomon fought so hard to obtain for them.

Congressman Solomon was proud to be labeled a hawk on defense, always arguing that our Nation had to be fully prepared and strong for the new challenges in the post-Cold War world. Today we fully recognize the wisdom of his policy as we pay tribute to this great American by honoring both him and all our veterans by designating the Veterans' Cemetery at Saratoga Springs as the Gerald B.H. Solomon Saratoga National Cemetery.

Accordingly, in honoring our good colleague, Jerry Solomon, I urge our colleagues to fully support this legislation. Semper fi, Jerry.

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

Mr. SMITH of New Jersey. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. SWEENEY).

□ 1815

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

Madam Speaker, as the one who succeeded Jerry Solomon in Congress, I am proud today to stand and speak on behalf of this important piece of legislation.

As it has been pointed out, Jerry Solomon served in this body for over 20 years since 1978. He has many friends in this House and I count myself among them. I doubt there is one among us who did not respect him. He was an American's American, a Marine's Marine, a veteran's veteran.

Devoted to his wife, Freda, his 5 children, and his 6 grandchildren, Jerry Solomon became a great statesman, but always remained a loving husband, father and grandfather.

He was a man who called them as he saw them, Madam Speaker. Over his career he led the way on veterans' issues, culminating in the establishment of a Cabinet post for veterans' affairs.

He led the way in fighting to cure an amendment to our Constitution to protect our flag.

He brought a national cemetery to Saratoga, New York, which happens to be my home county as well, where he himself has been laid to rest. Thanks to this legislation, it will now bear his name.

It is the right thing, an honorable gesture by this body to remember a patriot and his work.

In his final years in this House, Jerry Solomon served as chairman of the Committee on Rules. That achievement speaks volumes about the man, the leader, and the legislator.

What I learned about Congressman Solomon many among us know. If he cared enough to tell someone something, they had better listen.

Madam Speaker, Jerry Solomon has left us, but neither he nor his achievements will ever be forgotten. It is with great pleasure that I support this legislation to rename the Saratoga National Cemetery to the Gerald B.H. Solomon Saratoga National Cemetery.

Mr. EVANS. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MCNULTY).

Mr. McNULTY. Madam Speaker, I thank my colleague for yielding me time.

Madam Speaker, as he pointed out earlier, this is not the first time a bill has been introduced to accomplish this purpose. On August 3, 1998, I introduced H.R. 4385 to name the Saratoga National Cemetery in honor of my friend and late colleague, Jerry Solomon.

We quickly rounded up 88 cosponsors to that bill, very enthusiastically supporting it. We were moving forward with the bill and then some very small-minded people, bureaucrats in the Department of Veterans Affairs, raised an objection. Their objection, Madam Speaker, was simply this: Something like this has never been done before.

Imagine the kind of world we would live in if we all had that attitude. We cannot do it because it was never done before. I said, well, it ought to be done now.

The next day Jerry Solomon called me over to his side of the aisle, and we sat in that seat right over there, and he asked me to withdraw my bill. Jerry Solomon and I were a team for 10 years, and he was always the one that was a little bit more, let us say, excitable. But on that day I was the one who was agitated, and I said, Jerry, I want to fight this. And he very calmly said to me, very characteristically because of his love for veterans, I do not want any controversy associated with that cemetery, and if one person in the bureaucracy objects, I want you to withdraw the bill.

I acceded to the request of my friend and colleague. But today I thank the gentleman from Illinois (Mr. HASTERT). I thank the Speaker of the House for using the power and influence of his office to do the right thing and to name this cemetery for this soldier and patriot.

I am just so happy that Jerry lived to see the day when Communism fell apart in Eastern Europe; to see Lech Walesa and the Solidarity movement succeed; to see the downfall of Eric Honneker and Egon Krenz; to see the people out there tearing down the Berlin Wall piece by piece; to subsequently see the dismantling of the Soviet Union, devolving into 15 individual democratic republics; to see the people of Armenia, one of those former republics, standing up in September of 1991 and voting 98 percent for independence and shouting the next day, ''Ketze azat ankakh hayastan,'' long live free and independent Armenia; and then pointing to the United States of America as their example of what they wanted to be as a democracy.

Yes, we live in the freest and most open democracy on the face of the Earth, but Jerry Solomon understood that freedom is not free. We have paid a tremendous price for it. And he did not let a day go by without remembering with gratitude all of those who made the supreme sacrifice and all of those who served, put their lives on the line, came back home, rendered outstanding service to our country—veterans of our country—and raised beautiful families to carry on in their fine traditions.

That was Jerry Solomon, and he spent 15 years of his life to make sure that that cemetery came to Saratoga. And I can say without any fear of anybody positing anything to the contrary, that cemetery would not be in Saratoga if it were not for Jerry Solomon. That is just a fact.

So today I ask my colleagues to support this bill, to support the Speaker, and to pay tribute to the memory of Jerry Solomon and, in doing that, to say thank you to Freda and Jerry's children and, yes, to all veterans.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself 10 seconds to thank my good friend and colleague, the gentleman from New York (Mr. MCNULTY) for his powerful statement on behalf of Jerry Solomon and for introducing, as he pointed out, a resolution earlier that would have named this important asset, this cemetery, in honor of Jerry Solomon. And customary and just so characteristic of Jerry, he wanted to be self-effacing and did not want any fuss being made about him. It does not surprise me that he approached the gentleman and said, hey, do not push it. That is just so typical of Jerry Solomon.

I want to thank the gentleman for his leadership. I think that epitomizes

the best of bipartisanship. That this is what it is all about. We care for each other. The gentleman cared for Jerry, and he showed it while he was alive in trying to get this cemetery named in his honor. I want to congratulate and thank the gentleman for that.

Madam Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Madam Speaker, I would also like to thank the gentleman from New York (Mr. MCNULTY) because I do not have the words to follow the articulation.

Each of us individually have our own memories of our dear friend, Jerry Solomon. And I compliment the gentleman for his statement.

I rise and encourage all Members to support H.R. 3392. It is fitting that a national veterans' cemetery in Saratoga, New York be named after our colleague, Jerry Solomon. It honors not just the person but the contributions to our country.

I know Marines are proud of their military service but it is much more. It is the cohesion of the brotherhood that only combat Marines understand and it survives beyond the distant battlefield. It becomes a way of life, led by the attributes of honor, integrity, courage, and commitment. Jerry Solomon emulated these virtues and values during his life and left a distinct impression upon our country, his constituents, friends and family.

I am quite sure the comrades who he lies with are equally proud to have their remains rest in perpetuity in a national veterans' cemetery that bears the name of Jerry Solomon. We miss you, Jerry.

Mr. EVANS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

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

Mr. DREIER. Madam Speaker, I rise in strong support of this resolution and, as has been said by many of my colleagues, we all have our memories of Jerry Solomon. I have to stand here and say that I miss him. I miss the fact that we are no longer able to talk regularly on the phone. I miss his service here in this institution.

I believe that this is an appropriate action that we can take here because of his extraordinary service not only here in the Congress, but his service as a proud Marine.

My late father and Jerry became good friends. My father was a drill instructor in the United States Marine Corps and my father regularly encouraged Jerry to crack the whip on me. And Jerry followed my father's direction extremely well.

On more than a few occasions I was taken to the woodshed by Jerry Solomon. I was encouraged to step outside, and I will say that it was good for me. And while at the time I may have been a little miffed with some of the things that Jerry said, as are many experiences in life, it was a great growing experience for me.

I appreciate the leadership that Jerry Solomon showed in so many areas. He was a Korean War hero veteran, and there was no one in this institution who fought harder for, as the gentleman from New York (Mr. MCNULTY) said, the demise of the Soviet Union than Jerry Solomon.

I had the opportunity to travel with him throughout the world. We traveled in the Mideast. We traveled to Asia. He took me on my first trip to Vietnam on February 14 1986. I remember being there on Valentine's Day. We traveled numerous times to Central America.

I thought a lot about Jerry as we just saw a few weeks ago the successful election of a democratic, small ''d,'' leader in Nicaragua, because we all know through the 1980s we had this amazing struggle providing assistance to the democratic resistance in Nicaragua so that we could encourage the kind of freedom and political pluralism and recognition of human rights and encouragement of the rule of law that Jerry had fought for through his entire life.

So to be able to name the Saratoga National Cemetery the Gerald B.H. Solomon Saratoga National Cemetery is a very fitting tribute.

Madam Speaker, I would like to thank the Speaker of the House, the gentleman from Illinois (Mr. HASTERT) for moving this resolution forward and the gentleman from New Jersey (Mr. SMITH) and the distinguished ranking member, the gentleman from Illinois (Mr. EVANS) for moving this as expeditiously as they have. And I want to say once again to Mr. Solomon and his wonderful family, to the members of his family, that our thoughts and prayers continue to be with all of them during this very difficult and challenging time.

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

I want to thank the distinguished chairman of the Committee on Rules for his very eloquent remarks. We all have very fond memories. I know my first trip to Vietnam along with the gentleman from New York (Mr. GILMAN) on behalf of POWs was in 1984.

Mr. Solomon was again tenacious in trying to ensure that there was an absolutely thorough accounting and that any live sightings be followed up as aggressively as possible to ensure that nobody was left behind.

Mrs. KELLY. Madam Speaker, I rise in support of this measure honoring my friend and colleague Jerry Solomon.

As the rest of my colleagues, I was deeply saddened by his passing in October. Jerry Solomon was my friend. His gruff exterior belied the thoughtful and kind man's interior.

Jerry fought for his Nation, his family, and his district like the admirable Marine he was. If the Hudson Valley had a need, Jerry was there to help, either with legislation of his own or by supporting legislation of those of us representing the Hudson Valley.

To meet Jerry was to fall under this great driving strength and to be offered an invitation to join him in whatever battle he was engaged in, and the Saratoga National Cemetery was a battle he fought for and won.

He was a great man, and we remember and honor him with this action today.

Mr. HASTERT. Madam Speaker, I rise today in support of this legislation which would name the national cemetery in Saratoga, NY, the ''Gerald B.H. Solomon Saratoga National Cemetery.'' This is a fitting tribute for my friend and our former colleague.

I would like to thank Chairman SMITH, my colleague from Illinois Mr. EVANS, and the Veterans Affairs Committee for allowing this important legislation to move so quickly. As the sponsor of this legislation, I would also like to thank the numerous cosponsors, especially Mr. GILMAN and all the members of the New York Congressional Delegation.

I had the honor and privilege of serving with Jerry Solomon during many of his 20 years of service in the House. We all remember Jerry as someone who fought for what he believed in. He was your most tenacious advocate when he was on your side and a ''pit bull'' of an opponent when he wasn't. He was truly a man of principle, and you always knew where he stood.

Before being elected to Congress in 1978, Jerry Solomon had an impressive career of public service. He was, among other things, a U.S. Marine, successful businessman, volunteer fireman, scoutmaster, and a member of numerous organizations such as the National Rifle Association, the American Legion, Marine Corps League, Disabled American Veterans, and the Korean War Veterans Association.

When Jerry was elected to Congress, he took on several important issues. For starters, Jerry Solomon spent many years devoted to ending the scourge of drugs, where I had the opportunity to work closely with him. In this capacity, he successfully championed many pieces of legislation requiring random drug testing and penalizing users and sellers of illegal drugs. He was a strong believer that illegal drug use is one of the most pressing issues facing our Nation's youth and fought it wherever and whenever he could.

In addition, when Republicans took control of the House, Jerry Solomon served as the Rules Committee chairman, where he presided over sweeping reforms in the way the House operates. Among other things, his committee abolished proxy voting, opened all meetings to the media and the public, and made Congress subject to the same laws that the American people live under. These were important reforms that fundamentally changed the way this House conducts its business.

In addition to this important work, Jerry served as ranking member on the Veterans Affairs Committee, where, as a veteran of the Korean war, he understood firsthand the importance of meeting the needs of our military

veterans to the fullest extent possible. In this capacity, Jerry made sure that veterans were heard and represented when he sponsored the bill that created a cabinet level Department of Veterans Affairs. And, of course, he made certain that we remembered our country's military veterans when he fought for 15 years to see that the Saratoga National Cemetery was established.

I urge my colleagues to support this important legislation. This country cannot and should not forget the efforts of those like Jerry Solomon who by word and deed made this country a better place.

Mr. SMITH of New Jersey. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3392.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of New Jersey. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3392.

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

There was no objection.

□ 1830

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES THAT VETERANS DAY CONTINUE TO BE OBSERVED ON NOVEMBER 11

Mrs. MORELLA. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 298) expressing the sense of the House of Representatives that Veterans Day should continue to be observed on November 11 and separate from any other Federal holiday or day for Federal elections or national observances.

The Clerk read as follows:

Whereas the veterans of the Armed Forces are owed a tremendous debt of gratitude for their service and bravery;

Whereas veterans play important roles in communities throughout the United States;

Whereas maintaining Veterans Day as a legal public holiday separate from all other Federal holidays and days for elections or national observances is the least that a grateful Nation should do in recognition of its veterans; and

Whereas November 11 is a solemn commemoration of the contributions of those who have served and defended the Nation, especially those who gave their lives securing the freedoms enjoyed by all citizens of the United States: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that Veterans Day should continue to be observed on November 11 and separate from any other Federal holiday or day for Federal elections or national observances.

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the rule, the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. MORELLA).

GENERAL LEAVE

Mrs. MORELLA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 298.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. MORELLA. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of House Resolution 298. The message of this resolution is simple and straightforward. It is the sense of the House of Representatives that Veterans Day should be observed on November 11. It should be observed separate from any other Federal holiday, election day, or any other national observance.

Madam Speaker, Veterans Day is the one day on which America honors all of those who have served in our Armed Forces. Its roots trace back to Armistice Day, which established November 11 as the day to honor veterans of World War I; but in 1954, after World War II and the Korean War, the name of the holiday was changed to Veterans Day.

For a brief period, from 1968 to 1975, Veterans Day was not observed on November 11. By law it was observed on a Monday in order to provide Federal employees with 3-day weekends, but in 1975 President Ford signed legislation to return the observance of Veterans Day on November 11, where it remains to this day.

President Ford's action supported the expressed will of the overwhelming majority of State legislatures, veterans service organizations and the American people. Yet today, there are those who would alter this distinct opportunity to honor our veterans by merging Veterans Day with other public activities such as election day.

This would be wrong, Madam Speaker. Since our Nation's founding, some 48 million men and women have stepped forward to defend our way of life. There are more than 25 million living veterans who have served in peace and war. More than a million died in service to America; and more than a million and a half have been wounded, and some very seriously.

As we debate this resolution today, America's servicemen and women are fighting in Afghanistan to defend us and our way of life from the terrorists who attacked us on September 11. As President Bush said in his Veterans Day proclamation this year: ''Our Nation will always be grateful for the noble sacrifices made by these veterans. We can never adequately repay them, but we can honor and respect them for their service.''

It would be a shame and a travesty, Madam Speaker, to allow the special meaning of Veterans Day to be submerged amid a welter of campaign activities. Election campaigns focus on issues that divide us. That is how our democratic system works. We engage in a great national debate over a variety of serious issues. Campaign ads flood television and radio. Campaign activities dominate the news, and then the American people vote and determine who will represent them.

This is a great process, Madam Speaker; but we would lose something very special if it were combined with Veterans Day. We would lose the opportunity to pause and honor our veterans as a Nation united in gratitude for their service. Maintaining Veterans Day as a legal public holiday, separate from all other Federal holidays, is the least that a grateful Nation should do.

I want to congratulate and thank the gentleman from Nebraska (Mr. TERRY) for introducing this legislation; and, Madam Speaker, I urge all Members to support this important resolution.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as we just listened to the debate and tributes being paid to Representative Solomon, I think that gives us one of the reasons why this bill is so important; and so I rise in strong support for H. Res. 298, a bill expressing the sense of the House of Representatives that Veterans Day should be observed on November 11 and separate from any other holiday or day for Federal elections or national observances.

Madam Speaker, in 1921 an unknown World War I American soldier was buried in Arlington National Cemetery. This site, on a hillside overlooking the Potomac River and the city of Washington, became the focal point of reference for American veterans.

On Sunday November 23, 1921, Miriam Felt, then 23 years old, wrote a letter to her family describing the events in Washington, DC., during the time of that first burial, now known as the Tomb of the Unknown Soldier, in Arlington National Cemetery.

Miriam wrote: ''Well, this last week has been quite an event in history, and I certainly do wish you all could have been in Washington. It certainly is something I shall never forget. Somehow, you can talk about it and think about it, but the realization of the

whole thing struck me so much more by seeing it all, and it was so impressive. Of course, Washington is alive with foreigners of all sorts, and I am turning around all the time to see something else for fear that I will miss something.

''Thursday night after work, Gertie and I went up to the Capitol to see the body in state there. We went up about six o'clock, thinking the crowd would not be so large. But at that time, the line four breast extended over two blocks, and by the time we had reached the Capitol steps and could look back at the crowd, it extended up on one side of the park, down another side, then the third side of it and on beyond the Capitol Building where we could see no farther, so I don't know how much longer it was. It was perfectly beautifully managed, and there was no crowding, and everyone, strangely enough, acted as though they really were there to pay respect to the memory which that body was to represent to the country.''

As a postscript, Miriam Felt wrote: ''Give my love to Grandpa. Sorry he isn't feeling up to par. Tell him to be a good boy. Tell him too that some of his old 'cronies' marched to Arlington Friday and they looked mighty fine, I'll tell you, and I thought a lot about what he did for his country.''

November 11 is a time for us to reflect on what the men and women of the United States military have and continue to do for the country. The feeling of pride and patriotism expressed in Miriam Felt's letter should be felt by all of us. No longer can we take the freedoms that we enjoy today for granted, and no longer can we take the men and women who fought for those freedoms for granted.

Yes, Madam Speaker, I encourage that we hold aside this day for this purpose only and for no other purpose, except to honor and pay tribute to the men and women of this country who have given and continue to give the last measure of devotion that one might have so that we can continue to enjoy the freedoms that we so rightly deserve.

Madam Speaker, I reserve the balance of my time.

Mrs. MORELLA. Madam Speaker, I yield 4 minutes to the gentleman from Nebraska (Mr. TERRY), who is a prime sponsor of the legislation.

Mr. TERRY. Madam Speaker, certainly as Americans, especially now, we owe the men and women who served our country in times of war a tremendous debt of gratitude. Simply put, we cannot do enough to thank them for their contributions to our great Nation. We cannot do enough to honor them for their dedication to the principles of freedom and liberty which our families enjoy.

To that end, we set aside one day each year, November 11, to recognize the contributions of American war veterans to this great Nation. We keep one day to be mindful of their sacrifices and the sacrifice of their families. Veterans Day is for them, and now the sanctity of that day is in jeopardy.

Just to tell my colleagues a story, last Veterans Day, just a few weeks ago, I attended several ceremonies; and one of the speakers got up at the ceremony in our memorial park in Omaha, Nebraska, and said to the attendees, If Congress has their way, this will be the last time we meet.

He went on to say that combining Veterans Day with election day is a little bit like combining Christmas and Halloween. I do not necessarily agree with his analogy, but the point was well taken.

Whenever I would attend the VFW groups, American Legion clubs at home, this issue was always brought up about protecting the sanctity of the one day a year that we put aside to thank these folks; but somehow some folks here in Washington have been sidetracked. There was an election commission that perhaps one of their recommendations was combining Veterans Day with election day to increase voter turnout. Some people up here on Capitol Hill endorsed that idea. It was a balloon that was floated, and somehow then that became what Congress was going to do to these folks who sacrificed their time and their lives for America.

Today, we have the opportunity then to take something that has just grown way out of proportion and set the record straight, that we in this body wish to see a day of reflection for our veterans who triumphed, who sacrificed; that we will pay tribute to them on that one day a year that we have set aside, the 11th day of the 11th month of each year.

I do not, Madam Speaker, nor do the proud veterans and the proud Americans of the second district, wish to see this date moved or blended in with some other holiday or event. The fact is that Veterans Day holds a patriotic duty for Americans to recognize the commitment of American veterans to duty, honor, freedom and liberty.

Election day is a day of civic obligation, dedicated to separate purposes, and combining this day with others would simply be to disrespect what they have done for us.

I urge my colleagues to vote yes on this resolution.

Mr. DAVIS of Illinois. Madam Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished gentleman from Illinois (Mr. DAVIS) for yielding me the time, and I thank the distinguished gentlewoman from Maryland (Mrs. MORELLA), as well the sponsor of this legislation; and I rise enthusiastically to support this legislation.

I come from a family of veterans, particularly having served in World War II; and every Veterans Day I look forward to embracing and celebrating with my community, with Houston and Houstonians, the veterans that have offered themselves for service so that I might live in freedom.

It is true that veterans everywhere deserve our honor and appreciation. They deserve the parades and the accolades. Now more than ever, as we live in the shadow of September 11 and realize that we collectively must fight terrorism, Veterans Day must be promoted and celebrated because even today we have young men and women going forth to protect our rights.

I have legislation, H.R. 934, which specifically indicates that the possibility of an election day holiday should not be on Veterans Day, and I rise enthusiastically to confirm the importance of voting, but likewise to ensure that no election holiday would take Veterans Day and that we would work to ensure that the sacrifice of our veterans is singularly honored on November 11 every year and that as we fight to ensure that there is opportunity for access to the voting booth that we can do that side by side.

Just this past weekend, Houston, Texas, experienced a very tough election; and that election was that of our city leader, Mayor Lee P. Brown. Many of us are well aware of his leadership in Washington. We base the success of his victory on simply encouraging people to express their viewpoint in getting out to vote.

□ 1845

That is all we want to do, to ensure that the improprieties and the injustices that eliminated people's rights to vote are corrected. We can do that side by side as we protect the veterans' holiday of November 11. So I also ask my colleagues to consider 934. H.R. 934 protects Veterans Day, November 11, as a singular holiday, and it promotes the idea of an election holiday separate and apart from November 11.

I am very gratified for the sponsor of this legislation, and I rise in enthusiastic support of this legislation. I believe that the causes and the purposes of H. Res. 298 are those that this body can collectively support as we pay tribute to our veterans yesterday, today and tomorrow, and then that we also acknowledge the privilege of voting and ensuring that people have the right to vote, and a special day to vote separate, but a day apart from any day we would honor our veterans.

To our veterans I say: You are, in fact, our first responders of freedom and justice and equality.

Mrs. MORELLA. Madam Speaker, I am pleased to yield 3 minutes to the gentleman from New Jersey (Mr.

FRELINGHUYSEN), who has sponsored such legislation.

Mr. FRELINGHUYSEN. Madam Speaker, I thank the gentlewoman for yielding me this time, and I rise today, along with my colleague, the gentleman from Nebraska (Mr. TERRY), to offer House Resolution 298, a resolution expressing the sense of this body that Veterans Day should be observed as a separate, distinct national holiday, and I thank the gentleman from Nebraska for all of his work in the interest of so many Members.

Madam Speaker, after the turmoil of last year's national election, President Bush rightly called for the creation of a National Commission on Federal Election Reform, chaired by two of his esteemed predecessors, President Ford and President Carter. Under their able leadership, this commission studied the lessons of that election and formulated a 13-point plan for reform. While they raised many valid points, I respectfully disagree with their third recommendation: that this Congress enact legislation to combine Election Day with Veterans Day.

As we know in this House, held on the 11th day of the 11th month, a date which marks the armistice which ended the Great War of 1918, Veterans Day began as a day to honor those who fought for freedom with the allies in Europe during World War I. It was later expanded after America's participation in World War II to include those veterans. But it was not until after the Korean War in 1954 that November 11 became a day set aside to honor all those who have worn our Nation's uniform and who have fought and died to preserve the ideals and values we hold most dear.

Now, as a way to increase voter participation and enable more public spaces to be used as polling sites, this commission and others have seized upon the idea of merging Election Day with Veterans Day. This idea is well intentioned but dead wrong. As a New Jersey resident and former national commander of the Veterans of Foreign Wars, Bob Wallace, wrote to me in September, ''We believe that any suggestion or consideration of Veterans Day serving as Election Day would significantly diminish Congress' original intent to honor the men and women who served in the Armed Forces.'' As a fellow veteran, I agree.

Bob also said, and I quote, ''The historical significance of Veterans Day should remain just that, a day to solemnly honor America's veterans for their patriotism and willingness to sacrifice all for freedom.'' It could not be said better. This is the reason we have sponsored this legislation, and I urge the Members of this House to support it.

Mr. DAVIS of Illinois. Madam Speaker, I continue to reserve the balance of my time.

Mrs. MORELLA. Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Madam Speaker, I thank the gentlewoman for yielding me this time, and I rise in strong support of this legislation expressing the sense of the House that Veterans Day should be observed on November 11 and be separate from any other Federal holiday. I urge my colleagues to lend their strong support to this bill.

I thank the gentlewoman from Maryland (Mrs. MORELLA) for her leadership in bringing the measure to the floor at this time, as well as the ranking minority member, the gentlewoman from the District of Columbia (Ms. NORTON), for her work. I also commend the sponsors, the gentleman from Nebraska (Mr. TERRY) and the gentleman from New Jersey (Mr. FRELINGHUYSEN), for their work on this legislation.

In recent years, there have been a number of proposals to merge Veterans Day with Election Day as one Federal holiday in order to encourage the maximum number of voters to go to the polls. While I support increasing voter participation in elections, I believe that proposals along those lines would be an insult and disrespectful to the contributions and service performed by our Nation's veterans.

For many years, we have had a unique, separate holiday for those who gave the ultimate sacrifice in the service of their Nation during our Nation's many military conflicts. It is only fitting that we continue to have a separate holiday for the living who served their country in military service.

Madam Speaker, those who want to encourage election reform by establishing a new Federal holiday can be heard on that subject. However, the service of our veterans should not be diminished in any manner by having Veterans Day share its honor with another Federal holiday observance. November 11, the day honoring our veterans of our Armed Forces, should remain solely a day to honor their contributions and their loyalty to our Nation.

Accordingly, I urge my colleagues to join in supporting this timely and appropriate measure.

Mr. DAVIS of Illinois. Madam Speaker, I continue to reserve the balance of my time.

Mrs. MORELLA. Madam Speaker, I am pleased to yield 3 minutes to the gentleman from New Jersey (Mr. SMITH), who chairs the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Madam Speaker, I rise today in very strong support of this resolution, H. Res. 298, calling for Veterans Day to remain a distinct Federal holiday observed every year on November 11.

Eighty-three years ago, in a forest northeast of Paris, an armistice was signed that ended the fighting in World War I commencing on the 11th hour of the 11th day of the 11th month of 1918. The war to end all wars was over. It had been won through the selfless service and sacrifice of tens of thousands of American men and women, joining together with millions of our British, French, and other allies.

To commemorate this historic event, the following year, President Woodrow Wilson, who I would note parenthetically was a former New Jersey Governor, issued a proclamation declaring November 11 Armistice Day, saying that, and I quote, ''The reflections of Armistice Day will be filled with solemn pride in the heroism of those who died in the country's service and with the gratitude for the victory.'' Following World War II, Armistice Day was renamed Veterans Day to honor all those men and women who served a grateful Nation.

Madam Speaker, as chairman of the House Committee on Veterans' Affairs, I am unalterably opposed to any proposal that would alter or in any way diminish Veterans Day. In particular, I stand in opposition to the recommendation of the National Commission on Federal Election Reform that Federal elections be held concurrently with Veterans Day.

While I, like every other Member of this House, want citizens to fully exercise their franchise and to vote, I do not believe diluting Veterans Day is a way to achieve that end. Such a change would defeat the purpose of reserving a day in the year to honor all men and women, living and deceased, who have risked their lives to defend our Nation.

Veterans Day, especially when it is coupled with Memorial Day, the day we honor our war dead and those who have died who served honorably, are 2 days, and it is the least we can do, I would say, Madam Speaker. And, again, to diminish it would be wrong.

In 1987, Madam Speaker, Congress made a similar mistake when legislation was approved to change the national Veterans Day observance from November 11 to the fourth Monday in October to create a 3-day weekend for Federal employees. This misguided policy was quickly abandoned following a national outcry from millions of Americans, veterans and nonveterans alike.

Madam Speaker, Veterans Day is more than just a holiday. It is a continuing history lesson for all Americans. It is a reminder that freedom is not free; that our liberties, which are endowed by our Creator, must be defended against all who would remove them.

This is a very good resolution and I urge strong support for it.

Mrs. MORELLA. Madam Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. JEFF MILLER), one of our newest Members of this august body.

Mr. JEFF MILLER of Florida. Madam Speaker, I thank the gentlewoman for yielding me this time, and I rise today in support of H.R. 298.

In respect and recognition of the contributions our servicemen and women have made to the cause of peace and freedom around this world, the laws of the United States make November 11 a Federal holiday in honor of every American who has served this country. While we always appreciate the men and women of the military, it is altogether fitting that we set a time aside to do so publicly. Veterans Day was established for this reason, and November 11 should be set aside for this reason alone.

Throughout the course of American history, nearly 48 million men and women have stepped forward to defend our land, our people, and our principles. Today, there are more than 25 million living veterans who served our Nation, many of them willingly entering harm's way to preserve, protect, and defend our freedom. The strength of the United States is a direct result of their courageous, patriotic, and dedicated service for which we can never fully thank them.

Because of their service to the United States in the cause of freedom and liberty, we are citizens of the greatest Nation in the history of the world. I thank our veterans for their dedicated service to our country, and I also thank their families for sharing their loved ones throughout the years. The excellence of our veterans is a model for men and women everywhere who are asked to defend our country. At this moment, men and women of the Army, the Navy, the Air Force, Marines, and Coast Guard are serving around the world, and they could have no better example to follow or tradition to live up to.

I urge my colleagues to vote in favor of this resolution and to retain this fitting honor for all of our veterans.

Mrs. MORELLA. Madam Speaker, I yield myself the balance of my time.

The 3 million members of the American Legion and the 100,000 members of the Noncommissioned Officers Association support this resolution. It is also supported by the 370,000 members of the Retired Officers Association, the 1 million members of the Disabled American Veterans, the 2 million members of the Veterans of Foreign Wars, the members of the Vietnam Veterans Association, the members of the Retired Enlisted Association, and the members of AMVETS.

I do again want to thank the gentleman from Nebraska (Mr. TERRY) and the gentleman from New Jersey (Mr. FRELINGHUYSEN) for introducing this resolution, as well as the gentleman from Indiana (Mr. BURTON), who chairs the Committee on Government Reform, as well as the gentleman from California (Mr. WAXMAN), the ranking member, for having this resolution come to the floor so promptly.

I urge all Members to stand with our Nation's veterans and their organizations in support of House Resolution 298.

Ms. JACKSON-LEE of Texas. Thank you, Madam Speaker and Congressman TERRY, for this important resolution which expresses the sense of the House that Veterans Day should continue to be observed on November 11.

Under current law, November 11 of each year is designated as Veterans Day, a federal holiday honoring veterans of the U.S. Armed Forces. This important tradition began in honor of November 11, 1918—the 11th hour of the 11th day of the 11th month in which Americans began laying down their arms. In 1921, this day marked the burial of an unknown World War I American soldier who was buried in Arlington National Cemetery. Historically, similar ceremonies occurred in England and France where an unknown soldier was buried in each nation's highest place of honor. These memorial gestures all took place on November 11.

Armistic Day officially received its name in America in 1926 through a Congressional resolution (44 Stat. 1982). In 1938 it became a national holiday by an Act (52 Stat. 351; 5 U.S. Code, Sec. 87a) as "a day to be dedicated to the cause of world peace and to be hereafter celebrated and known as 'Armistice Day.'" Initially, set aside to honor veterans of World War I, in 1954, after World War II, the 83rd Congress amended the Act of 1938 by striking out the world "Armistice" and inserting the word "Veterans" in order to honor American veterans of all wars.

Just this past Veterans Day, I honored America's veterans and those who gave their lives for America's freedom and democracy at the Veterans Memorial National Cemetery in Houston, Texas. There, I expressed our gratitude to the men and women who have given themselves to national service. Their sacrifice, particularly in light of the September 11 attacks and the ongoing war on terror, reminds us that we cannot take our freedoms and democracy for granted. This important day should be preserved and honored at all costs.

I am a product of America's veterans and have several members of my own family who were veterans of World War II. For them and for all the veterans of this great Nation, I oppose any holiday or Election Day on Veterans Day. That's why, on March 7, 2001 I introduced H.R. 934 which ensures that Election Day never interferes with Veterans Day.

It is because of the sacrifices made by our veterans for freedom, the flag, and the American people that we are today able to vote, and that I was able to introduce this legislation which provides a greatly needed federal Election Day. It establishes Presidential Election Day on the Tuesday next after the first Monday in November in 2004 and each fourth year thereafter, as a legal public holiday.

This resolution before us today, H. Res. 298 expresses the sense of the House that Veterans Day should continue to be observed on November 11, as under current law, and separate from any other federal holiday. This is an important message, needed to express to our Nation's veterans and those across this great Nation that we will forever remember and honor those who have served in our Armed Forces.

I strongly urge my colleagues to support it.

Mrs. CHRISTENSEN. Madam Speaker, November 11th is Veterans Day period.

On behalf of the veterans of the U.S. Virgin Islands, who have fought in every one of this country's wars from the Revolutionary War forward, I support H. Res. 298, and commend our colleagues for introducing this resolution expressing the sense of the House, that this day would forever be set aside as the day we honor those who have so nobly served this country and all of us. That is as those from my district would have it.

What a small concession from the country to those who have sacrificed and been willing to fight unto death—willing to make the ultimate sacrifice. But it is of great importance and significance to them.

November 11th is Veterans Day, period. Let's not fix what ain't broke.

Mrs. KELLY. Madam Speaker, I want to rise in support of this measure which reminds us of the importance of honoring our nation's veterans.

In light of our current circumstances, with American soldiers now on hostile ground, we ought to be especially mindful of our efforts to acknowledge and honor those who have served our country.

While I understand that some may see this annual day of honor also as a day of convenience, an already-established holiday that can be used for other purposes, I believe that any effort to place any other designations on this day is unacceptable. These are our veterans. These are the men and women who have put the well-being of their country ahead of their own. It is not asking too much to have one day a year dedicated solely to their efforts.

Our veterans deserve it.

Mrs. MINK of Hawaii. Madam Speaker, I rise today in support of House Resolution 298, expressing the sense of the House that Veterans Day should be observed on November 11th and separate from any other federal holiday.

Veterans Day originated in 1920 and was originally named Armistice Day to mark the end of World War I on the 11th month, the 11th day, and the 11th hour of 1918. In 1954 Congress broadened the holiday by renaming it Veterans Day to honor American veterans of all wars.

In Presidential Proclamation 3071, President Dwight D. Eisenhower called on the nation to set aside Veterans Day to "solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air, and on foreign shores, to preserve our heritage of freedom." He challenged the nation to "reconsecrate ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain."

On Veterans Day we meet that challenge and honor the 405,399 Americans that lost their lives in World War II, the 58,198 that lost their lives in Vietnam, and thousands of others that lost their lives in all other conflicts. Despite the need to protect the purposes of Veterans Day, the National Commission on Federal Election Reform recommended that Congress enact legislation to conduct federal elections on Veterans Day. We must not diminish

the importance of Veterans Day by sharing Veterans Day with any other even which distract our attention from the veterans who have served this country.

Veterans Day is a sacred day to honor veterans for their patriotism, love of country and willingness to make sacrifice for our nation.

I urge my colleagues to vote for House Resolution 298 and maintain the integrity of the day set aside to focus the nation's attention on the important sacrifices made by Veterans.

Mr. EVANS. Madam Speaker, I rise in strong support of House Resolution 298 and urge all of my colleagues to support this important measure. Mr. Speaker the purpose of House Resolution 298 is simple, but it is as profound as it is simple.

House Resolution 298 expresses the sense of the House of Representatives that Veterans Day should continue to be observed on November 11. In addition, Veterans Day should be observed separate and apart from any other Federal holiday or day for Federal elections or national observances. Our nation has a long-standing tradition of honoring our veterans on November 11. As many know, the observance of Veterans Day on November 11 has historic significance. On the 11th hour of the 11th day of the 11th month, the guns used to wage World War I were officially silenced. This day, Armistice Day, became known as Veterans Day as our nation recognized the sacrifice and service of all our Nation's veterans.

Veterans Day should be preserved and continue to be the day our nation pauses to recognize all veterans. Let us retain November 11 as Veterans Day and honor all those who have served our nation in uniform.

Mrs. MORELLA. Madam Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and agree to the resolution, H. Res. 298.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TERRY. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CRIMINAL JUSTICE COORDINATING COUNCIL RESTRUCTURING ACT OF 2001

Mrs. MORELLA. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2305) to require certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2305

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 ''Criminal Justice Coordinating Council Restructuring Act of 2001''.

SEC. 2. AUTHORIZING FEDERAL OFFICIALS ADMINISTERING CRIMINAL JUSTICE SYSTEM OF DISTRICT OF COLUMBIA TO PARTICIPATE IN CRIMINAL JUSTICE COORDINATING COUNCIL.

(a) IN GENERAL.—Each of the individuals described in subsection (b) is authorized to serve on the District of Columbia Criminal Justice Coordinating Council, participate in the Council's activities, and take such other actions as may be necessary to carry out the individual's duties as a member of the Council.

(b) INDIVIDUALS DESCRIBED.—The individuals described in this subsection are as follows:

(1) The Director of the Court Services and Offender Supervision Agency for the District of Columbia.

(2) The Director of the District of Columbia Pretrial Services Agency.

(3) The United States Attorney for the District of Columbia.

(4) The Director of the Bureau of Prisons.

(5) The chair of the United States Parole Commission.

(6) The Director of the United States Marshals Service.

SEC. 3. ANNUAL REPORTING REQUIREMENT FOR CRIMINAL JUSTICE COORDINATING COUNCIL.

Not later than 60 days after the end of each calendar year, the District of Columbia Criminal Justice Coordinating Council shall prepare and submit to the President, Congress, and each of the entities of the District of Columbia government and Federal government whose representatives serve on the Council a report describing the activities carried out by the Council during the year.

SEC. 4. FEDERAL CONTRIBUTION FOR COORDINATING COUNCIL.

There are authorized to be appropriated for fiscal year 2002 and each succeeding fiscal year such sums as may be necessary for a Federal contribution to the District of Columbia to cover the costs incurred by the District of Columbia Criminal Justice Coordinating Council.

SEC. 5. DISTRICT OF COLUMBIA CRIMINAL JUSTICE COORDINATING COUNCIL DEFINED.

In this Act, the ''District of Columbia Criminal Justice Coordinating Council'' means the entity established by the Council of the District of Columbia under the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. MORELLA).

GENERAL LEAVE

Mrs. MORELLA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration, H.R. 2305.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

□ 1900

Mrs. MORELLA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2305, as amended, formally establishes the Criminal Justice Coordinating Council, a joint Federal-local effort designed to foster cooperation among the various agencies that have law enforcement responsibility in our Nation's capital. I introduced this measure in June of this year, was joined by the gentlewoman from the District of Columbia (Ms. NORTON) as the original cosponsor of H.R. 2305. The bill was amended in subcommittee, and that is the version that we are now considering.

The amended bill authorizes the heads of six Federal agencies, the Court Services and Offender Supervision Agency for the District of Columbia, the District of Columbia Pretrial Services Agency, the U.S. Attorney for the District, the Bureau of Prisons, and the U.S. Parole Commission, as well as the U.S. Marshal Service, to meet regularly with District law enforcement officials. It also requires the CJCC to submit an annual report detailing its activities to the President, Congress and the appropriate Federal and local agencies.

The District of Columbia Financial Responsibility and Management Assistance Authority, known as the Control Board, originally established the CJCC 3 years ago through a memorandum of agreement. Cooperation between Federal and local law enforcement agencies has become even more critical in recent years because the Federal Government has assumed the responsibility of the District of Columbia courts and corrections functions under the 1997 Revitalization Act.

The CJCC is important because it brings the leaders of all participating agencies to the same table. They will work at getting rid of the interagency obstacles that are hindering attainment of the District of Columbia's criminal justice objectives. There are more than 30 law enforcement agencies with a presence in the Nation's Capital. There are 13 governmental agencies that have a direct role in the criminal justice activities in the District from arrest and booking to trial and correctional supervision. Four of these are city agencies such as the Metropolitan Police Department, six are Federal agencies such as the Office of the U.S. Attorney for the District of Columbia. And, finally, there are three agencies, Superior Court, Defender Services, and

Office of the Corrections Trustee that are local in nature but are funded by the Federal Government.

There is plenty of evidence, including recent reports from the GAO and the Council for Court Excellence, that shows that these individual agencies of the District of Columbia's criminal justice system are not always working in concert; and as a result, efforts at reform have sometimes stalled.

Some prime examples of the lack of coordination have been in the area of police overtime. According to the General Accounting Office the Metropolitan Police Department continues to lose millions of dollars each year because officers are waiting for court appearances or to consult with the U.S. Attorney's Office. The agencies use 70 different information technology systems that are not linked to one another. And most tragically, miscommunication among agencies have led to mistakes in correctional supervision, sometimes with fatal consequences. For instance, the killing of Bettina Pruckmayr, who was robbed and stabbed 38 times in 1995 by a convicted murderer who should have had his parole revoked on a drug charge but for the failures of the criminal justice system. This shows a terrible waste of human and monetary resources which I hope will be corrected by the CJCC.

With proper funding and structure, I believe the Criminal Justice Coordinating Council can be a very useful tool in fostering interagency cooperation. Not only can it assist in making day-to-day operations of the various criminal justice agencies more efficient, but in doing so the CJCC can help ensure that broader policy goals such as reducing violent crime and meting out justice more swiftly are also accomplished.

The language of H.R. 2305, as amended, reflects the input received from the Department of Justice. I thank the Department for its suggestions.

I recognize the gentlewoman from the District of Columbia (Ms. NORTON) for her support of this legislation; and I would particularly like to thank the chairman of the Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), for his interest in issues affecting the District of Columbia and his help in bringing this important legislation affecting our Nation's capital expeditiously to the floor. I also thank the gentleman from California (Mr. WAXMAN) of the full committee. I urge all Members to support H.R. 2305.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 2305, the Criminal Justice Coordinating Council Restructuring Act of 2001, a bill to strengthen the District of Columbia's Criminal Justice Coordinating Council by ensuring Federal participation and funds.

I also thank the Chair of the D.C. subcommittee, the gentlewoman from Maryland (Mrs. MORELLA), for working closely with the ranking member, the gentlewoman from the District of Columbia (Ms. NORTON), to develop this measure.

In 1998, the District of Columbia's financial authority created the D.C. Criminal Justice Coordinating Council. The goal of the CJCC was to coordinate criminal justice activities between the various Federal and D.C. agencies that have responsibility for different aspects of the criminal justice system in the District of Columbia. This coordination is essential because following the passage of the District of Columbia Revitalization and Self-Government Improvement Act in 1997, most of the District's criminal justice entities were either Federal agencies or D.C. agencies funded by the Federal Government.

Currently, there are 13 agencies with responsibility for some aspect of D.C.'s criminal justice system. All of these agencies are members of the CJCC, in addition to the Mayor's office and the Council of the District of Columbia. The goal of the CJCC is to provide a forum to identify and resolve coordination issues that arise in the District of Columbia's criminal justice system and to help implement critical justice reforms.

The Criminal Justice Coordinating Council Restructuring Act meets the legitimate concerns by District actors and the CJCC not to become a super agency while at the same time ensuring that supremacy clauses and federalism notions are respected. Specifically, the bill recognizes the Criminal Justice Coordinating Council as the appropriate entity set up by District legislation, the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001 to coordinate criminal justice activities in the District.

In addition, the bill requires that Federal agencies with a role in criminal justice matters in the District, including Court Services and Offender Supervision, Pretrial Services Agency, Office of the U.S. Attorney, the Bureau of Prisons and the United States Patrol Commission, serve on the CJCC, participate in its activities, and take such action as may be necessary to fulfill their duties on the CJCC.

However, in keeping with the mandates, no District official can compel a Federal official to take any action. The bill also authorizes Federal funds to carry out the duties of the CJCC. This measure will strengthen and enhance the CJCC as a vital coordination entity for the District's multi-jurisdictional criminal justice system.

Madam Speaker, I again thank the gentlewoman from Maryland (Mrs. MORELLA) for her work in bringing this important legislation to the floor. I urge its passage.

Madam Speaker, I include for the RECORD the statement of the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Madam Speaker, I rise in strong support of H.R. 2305, the Criminal Justice Coordinating Council Restructuring Act of 2001, a bill to strengthen the District of Columbia Criminal Justice Coordinating Council by ensuring federal participation and funds. I want to thank the Chair of the D.C. Subcommittee, Representative CONNIE MORELLA, for working closely with me to develop this measure.

In 1998, the District of Columbia Financial Authority (control board) created the D.C. Criminal Justice Coordinating Council (CJCC). The goal of the CJCC was to coordinate criminal justice activities between the various federal and D.C. agencies that have responsibility for different aspects of the criminal justice system in D.C. This coordination is essential because following the passage of the District of Columbia Revitalization and Self Government Improvement Act (Revitalization Act) in 1997, most of the District's criminal justice entities are either federal agencies, or D.C. agencies funded by the federal government. In the Revitalization Act, the District exchanged its traditional static federal payment for the federal funding of several functions normally funded by states. These functions included such criminal justice matters as prisons, offender supervision, public defender service, and courts.

Currently, there are 13 agencies with responsibilities for some aspect of D.C.'s criminal justice system. These agencies can be broken down into three categories: (1) D.C. agencies that are D.C. funded: the Metropolitan Police Department, Office of the Corporation Counsel, Department of Corrections, and Office of the Chief Medical Examiner; (2) federal agencies that are federally funded: the Office of the U.S. Attorney, the Bureau of Prisons, the U.S. Marshals Service, the U.S. Parole Commission, Court Services and Offender Supervision Agency, D.C. Pretrial Services Agency; and (3) D.C. agencies that are federally funded: the Superior Court, the Public Defender Service and the Office of the Corrections Trustee.

All of these agencies are members of the CJCC in addition to the Mayor's Office and the Council of the District of Columbia. The goal of the CJCC is to provide a forum to identify and resolve coordination issues that arise in the D.C. criminal justice system and to help implement criminal justice reforms.

The Fiscal Year 2000 District of Columbia Appropriations Act mandated that the General Accounting Office (GAO) perform a study to examine the effectiveness of coordination among the various entities charged with the operation of the District's criminal justice system. GAO released its report, entitled D.C. Criminal Justice System: Better Coordination Needed Among Participating Agencies in March 2001.

On May 11, 2001, the D.C. Subcommittee held an oversight hearing to examine the coordination of criminal justice activities in the District of Columbia and the GAO report.

GAO found that the CJCC is the ''primary venue in which D.C. criminal justice agencies can identify and address interagency coordination issues.'' The CJCC has worked on many such issues, including positive identification of arrestees, halfway house operations, and drug treatment of defendants. GAO praised the CJCC for its work on coordination projects where all participants stood to gain, such as data sharing and technology issues among agencies. However, GAO found that the CJCC was less successful on projects where one agency stood to gain at the expense of another, because the CJCC operates by the consent of the members and does not contain an enforcement mechanism.

GAO cited numerous projects where poor coordination led to inefficient operations and poor program performance. One example discussed at length in GAO report is case processing. In the District of Columbia, as many as six agencies are responsible for processing a case before a court appearance on a felony charge can occur. Unlike many jurisdictions, the U.S. Attorney's office requires officers to meet with prosecutors personally before they determine whether to charge an arrestee with a felony or misdemeanor. GAO found that during 1999, the equivalent of 23 full time officers were devoted to these appearances, reducing the number of officers on patrol.

GAO cautioned that although the CJCC had been funded by the D.C. control board, the board did not include funding for the CJCC in the District's Fiscal Year 2001 budget. The last remaining staff person, working almost exclusively on technology issues, was funded by a grant. GAO recommended that ''Congress . . . consider funding CJCC—with its own director and staff—to help coordinate the D.C. criminal justice system, and to require CJCC to report annually to Congress, the Attorney General, and the D.C. Mayor.''

In addition, GAO found that as of November 2000, the CJCC and other agencies reported ''93 initiatives for improving the operation of the [D.C. criminal justice] system.'' Although GAO stipulated that many of these coordination projects are ongoing and therefore cannot yet be fully evaluated, it found that of the 93 current projects there were 62 instances where participating agencies did not agree on the initiative's goals (11 instances), status (10 instances), starting date (1 instance), participating agencies (22 instances), or results to date (18 instances).

Several of the CJCC members disputed these findings, explaining that GAO did not examine closely enough the actual work performed on these projects and merely relied on summaries provided by the participants that may have appeared inconsistent. However, GAO found that ''this lack of agreement underscores a lack of coordination among the participating agencies that could reduce the effectiveness of these initiatives.'' GAO therefore recommended that Congress require all D.C. criminal justices agencies to report multi-agency activities to the CJCC, which would serve as a ''clearinghouse'' for these initiatives.

Although members of the CJCC agree that coordination among the various agencies that have responsibility for the District's criminal justice system needs to be improved, several members disagreed with GAO's recommendation for a congressionally created and funded entity to oversee coordination and reform initiatives.

For example, Deputy Mayor Margaret Nedelkoff Kellems, formerly the Executive Director of the CJCC, wrote in response to the GAO report, ''It has been my experience [however] that to the extent that reforms have taken root in the District through the CJCC, it has been not only because of coordination resources, but equally because the member agencies have felt ownership over the body. As reporting to the new entity you describe becomes a requirement, criminal justice agencies might perceive it to be threatening and respond on a perfunctory basis. Nevertheless, I concur in your basic premise that there must be a coordinating organization and it must have dedicated resources.''

Similarly, Superior Court Chief Judge Rufus King wrote, ''it is important that any successor [to the CJCC] not become a ''superagency'' which dictates to the different criminal justice agencies what the agenda should be or how problems which involve more than one agency should be approached . . . The most important thing to preserve in any newly constituted council is that it remain a council of independent agencies who are able to recognize their responsibilities to different funding authorities.''

Finally, former U.S. Attorney Wilma Lewis offered the following criticism of GAO's recommendation: ''I have some concern about your proposal that Congress 'consider requiring that all D.C. criminal justice initiatives that could potentially involve more than one agency be coordinated through the new independent entity' . . . I question whether such review is necessary for all initiatives that could potentially involve more than one agency. Given the interrelatedness of agencies in our system, it is difficult to think of any initiative—no matter how limited in scope or application—that would not fit that definition and require review by that entity. As such, I am concerned that such a requirement would be counterproductive, as it would hamstring each agency's ability to implement policies and practices within its appropriate sphere of activity.''

The Criminal Justice Coordinating Council Restructuring Act meets these concerns of District actors while at the same time ensuring that supremacy clause and federalism notions are respected. Specifically, the bill recognizes the Criminal Justice Coordinating Council (CJCC) as the appropriate entity set up by District legislation (the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001) to coordinate criminal justice activities in the District. In addition, the bill requires that federal agencies with a role in criminal justice matters in the District, including Court Services and Offender Supervision (CSOSA), Pretrial Services Agency, Office of the U.S. Attorney, the Bureau of Prisons, and the United States Parole Commission, serve on the CJCC, to participate in its activities and take such action as may be necessary to fulfill their duties on the CJCC. However, no District official can compel a federal official to take any action. The bill also authorizes federal funds to carry out the duties of the CJCC.

This measure will strengthen and enhance the CJCC as a vital coordination entity for the District's multi-jurisdictional criminal justice system. I once again thank Chairwoman MORELLA for her leadership in bringing this important legislation to the floor. I urge its passage.

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

Mrs. MORELLA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I commend the gentlewoman from the District of Columbia (Ms. NORTON) for joining with me in this important act, and I thank the gentleman from Illinois (Mr. DAVIS) for being a floor manager and for being so supportive of this legislation. I urge this body to endorse this bill by its vote.

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentlewoman from Maryland (Mrs. MORELLA) that the House suspend the rules and pass the bill, H.R. 2305, as amended.

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

The title of the bill was amended so as to read: ''A bill to authorize certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council, and for other purposes.''.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on three motions to suspend the rules on which further proceedings were postponed earlier today. The remaining questions postponed earlier today will be taken tomorrow.

Votes will be taken in the following order:

H.R. 3323, by the yeas and nays;

H.R. 3391, by the yeas and nays;

S. 494, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

ADMINISTRATIVE SIMPLIFICATION COMPLIANCE ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3323, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 3323, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 410, nays 0, not voting 23, as follows:

[Roll No. 466]

YEAS—410

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—23

Barr
Berman
Blagojevich
Brady (TX)
Brown (FL)
Cubin
DeFazio
Engel
Houghton
Istook
Jones (OH)
Kucinich
LaTourette
McKinney
Meehan
Pelosi
Quinn
Radanovich
Reyes
Riley
Roukema
Rush
Waxman

□ 1935

Mr. PAUL changed his vote from ''nay'' to ''yea''.

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr BRADY of Texas. Mr. Speaker, on roll-call No. 466, I was inadvertedly detained. Had I been present, I would have voted ''yea.''

MEDICARE REGULATORY AND CONTRACTING REFORM ACT OF 2001

The SPEAKER pro tempore (Mr. CULBERSON). The pending business is the question of suspending the rules and passing the bill, H.R. 3391.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Connecticut (Mrs. JOHNSON) that the House suspend the rules and pass the bill, H.R. 3391, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 25, as follows:

[Roll No. 467]

YEAS—408

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo

Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—25

Barr
Berman
Blagojevich
Brown (FL)
Cubin
DeFazio
Engel
Houghton
Istook
Jones (OH)
Kucinich
LaTourette
McKinney
Meehan
Nussle
Pelosi
Quinn
Radanovich
Reyes
Riley
Roukema
Rush
Shaw
Waxman
Weller

□ 1946

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. WELLER. Mr. Speaker on rollcall No. 467 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. NUSSLE. Mr. Speaker, on rollcall No. 467 I was unavoidably detained. Had I been present, I would have voted "yea."

ZIMBABWE DEMOCRACY AND ECONOMIC RECOVERY ACT OF 2001

The SPEAKER pro tempore (Mrs. BIGGERT). The pending business is the question of suspending the rules and passing the Senate bill, S. 494, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and pass the Senate bill, S. 494, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 11, not voting 26, as follows:

[Roll No. 468]

YEAS—396

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shadegg
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—11

Akin
Berry
Coble
Collins
Deal
Goode
Hostettler
Paul
Schaffer
Sensenbrenner
Taylor (MS)

NOT VOTING—26

Barr
Berman
Blagojevich
Brown (FL)
Buyer
Cubin
DeFazio
Engel
Houghton
Istook
Jones (OH)
Kilpatrick
Kucinich
LaTourette
McKinney
Meehan
Pelosi
Pomeroy
Quinn
Radanovich
Reyes
Riley
Roukema
Rush
Shaw
Waxman

□ 1954

Mr. BERRY changed his vote from "yea" to "nay."

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, DECEMBER 5, 2001

Mr. NUSSLE. Madam Speaker, I ask unanimous consent that it be in order at any time on the legislative day of Wednesday, December 5, 2001, for the Speaker to entertain motions that the House suspend the rules relating to the following measures: H. Con. Res. 232, H.R. 3248, H. Con. Res. 280, H.R. 3322, H.R. 2238, H.R. 2115 and H.R. 2538.

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

There was no objection.

ELECTION OF MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. NUSSLE. Madam Speaker, I offer a resolution (H. Res. 301) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 301

Resolved, That the following Member be and is hereby elected to the following standing committees of the House of Representatives:

Transportation and Infrastructure: Mr. Boozman.

Veterans' Affairs: Mr. Boozman.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER OF ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

The SPEAKER pro tempore. Without objection, pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), and upon the recommendation of the majority leader, the Chair announces the Speaker's appointment of the following Member on the part of the House to the Advisory Committee on Student Financial Assistance for a 3-year term to fill the existing vacancy thereon:

Ms. Norine Fuller, Arlington, Virginia.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MIAMI WELCOMES DOLE FRESH FLOWERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Madam Speaker, on December 9 of this year, approximately 300 employees will move into the newly-built world headquarters of Dole Fresh Flowers in Miami's International Corporate Park.

Miami has historically been the U.S. gateway for the floral industry, since the majority of flowers for commercial use are grown just south of us in South America.

Dole entered the flower business just 2 years ago, bringing to this industry 150 years' experience in growing, shipping, and marketing fresh produce around the world.

Dole consolidated four companies into a single entity, to be housed on 17 acres of land in a state-of-the-art facility measuring 328,000 square feet. Nearly 3 million stems of flowers will pass through the facility every day during this holiday season alone.

Employees have been eagerly awaiting the move to this efficient and beautiful new home since its groundbreaking last April.

□ 2000

Miami, and indeed all of our State of Florida, is enthusiastic about having this worldwide brand Dole in our community.

Welcome home, felicidades.

PASSAGE OF FAST TRACK LEGISLATION

The SPEAKER pro tempore (Mrs. BIGGERT). Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 5 minutes.

Mr. BONIOR. Madam Speaker, I congratulate the flower company for locating in Miami, but I would like to tell my friends that the bloom is off the rose here on Fast Track coming up this Thursday.

Madam Speaker, this Thursday's vote on Fast Track is an ill-timed attempt to force a divisive issue on our Nation when we least can afford it. Last week, the United States was officially declared in recession. Job losses are skyrocketing as a result of the faltering economy and the September 11 attacks. Workers are unsure of their jobs and unsure of their futures.

Meanwhile, nothing, absolutely nothing, has been done to help these workers. The Republican leadership has blocked effort after effort to address these most important questions that affect working men and women in this country. A meaningful improvement of unemployment compensation laws, any attempt to help expand health care for those who are out of work, and any other assistance that these worker desperately need, we have tried repeatedly month after month to get the leadership on the other side of the aisle to address these questions; and nothing has come from our efforts.

What the Republican leadership has done is use every opportunity available to spend billions of dollars in corporate tax benefits at the expense of working men and women in this country. We are waging war abroad, and we are united in that; but what is happening in this country is that the leadership of the Republican Party is waging war on the workers of this country.

This push for Fast Track is no different. Our flawed trade policies of the last decade have had a devastating toll on American workers. Since 1994, three million U.S. jobs have evaporated as a direct result of our failed trade policies.

In my home State of Michigan, over 150,000 jobs have been lost. Thousands of workers around the country are struggling to keep their jobs right now. They are in danger of becoming tomorrow's job-loss statistics.

It is time we reversed this trend. It is time we woke up and dealt with the crisis that is affecting millions of American workers and their families today. No money and unemployment comp to pay for the rent, to pay for the mortgage, to pay for education, to pay for food. No resources for health care, for members of the workforce or their families.

We do not need more job losses. We do not need more corporate giveaways, and we certainly do not need Fast Track.

I want to thank my colleague, the gentleman from Ohio (Mr. BROWN), for organizing this important discussion which we will have a little later on this floor tonight and for his work to highlight the efforts of Fast Track will have on all of our workers, including our farmers. Madam Speaker, many farmers are already reeling from bad trade deals. It is the same tune; it is the same song every time we get one of these things. Whether it is NAFTA or WTO or China, they come and they will offer the world, they will tell people they will fix this and they will fix that; and then the farmers, they get taken in every time on these things, not all of them. Some of them have figured it out, but the numbers prove what we have been saying all along: these trade policies are not good for our agriculture community.

I say to my colleagues, the timing of the Fast Track bill puts many U.S. farm bills in jeopardy once again, and the administration's willingness to put our trade laws on the table after the recent WTO ministerial shows our farmers have just as much to lose as every other worker in this country.

Madam Speaker, I ask that my colleagues look seriously at the proposal

that the gentleman from California (Mr. THOMAS) is bringing to the floor. It is flawed. It does not deal with worker rights, environmental rights, farmer rights; and the upshot of all of this is that we will give away much of our authority and power in the United States House of Representatives and in the other body to deal fairly and adequately and substantively with trade laws that will affect not only those areas, labor, environment, agriculture, but a whole host of other areas that affect the American public.

I ask my colleagues to stand with us as we fight this ill-conceived idea of Fast Track.

OPPOSE FAST TRACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. LYNCH) is recognized for 5 minutes.

Mr. LYNCH. Mr. Speaker, I am indeed new to this body; but I am by no means new to this issue. Prior to the great honor of serving in this body as the elected representative of the 9th Congressional District, I served as an iron worker for 18 years. I worked in the Quincy shipyard just outside of Boston. I worked in the steel mills in Michigan and Illinois, worked in United Auto Workers plants in Framingham, Massachusetts, and again in Michigan.

I have seen a lot of those jobs and a lot of those plants where I worked at one time disappear. I have seen them relocated. Good, highly skilled, well-paying jobs moved mostly to Mexico, but to other countries as well, in a race to find the lowest-paid worker and the least-strong labor standards and environmental standards.

First of all, I want to congratulate the gentleman from Michigan (Mr. BONIOR), as well as the gentleman from Missouri (Mr. GEPHARDT) and my own predecessor, John Joseph Moakley from Massachusetts, for their great work in fighting against this so-called Fast Track and also against NAFTA, which has served to really lower the working standards in some foreign countries that we are now dealing with as a result of NAFTA and which we seek to expand through this Fast Track legislation.

The proponents of this bill say that this is dearly tied to our fight against terrorism, but that cannot be further from the truth. The truth is, however, that Fast Track would do nothing to address America's security and economic needs in the wake of September 11. It neither rebuilds, nor does it restore the healing that is necessary to occur in this country.

What this does do is create what is in effect a silent auction, and what is being auctioned off here is first of all Congress' responsibility to deal with foreign trade. The United States Constitution says that it requires that Congress shall have the power to regulate commerce with foreign Nations, and it also says that it shall have the power to make all necessary laws proffered for carrying out those powers.

Fast Track changes all that. We give away our rights. We auction off the right to have a lively and open debate and choose instead to allow the U.S. Trade Representative to negotiate these deals in secret. It should be no surprise that this country has not been well served by secret negotiations, and we have proof positive that this is not the way to conduct our trade policy. Look at NAFTA. Look at the recent round of discussions and the latest ministerial pronouncements as a result of the WTO conferences.

There are no guarantees, no enforcement mechanisms for enforcing our labor laws or human rights. There are no mechanisms, no enforcement devices that allow us to enforce safety standards for food and for the environment.

What one does see is great protections for multinational corporations, no protections for American jobs, and this is simply a pattern that we should not follow; we should expand for the sake of following what some describe as free trade, which is not free trade at all, but it is trade that is dictated by unelected bureaucrats who sit in Geneva, Switzerland.

This bill would cut the Congress out of the process. It would eliminate the constitutional obligation that Congress has right now to serve the people.

The American worker should not be forced to compete with auto workers making 67 cents an hour in the maquiladoras just over the Mexican border. The sons and daughters of America should not be forced to compete with slave labor, which Fast Track would allow. The sons and daughters of America, our workers, should not have to compete with child labor, which Fast Track allows.

Tonight, as we have our armed services personnel, our proud sons, fighting on the ground in Afghanistan to restore and to preserve peace at home, we are seeing through this Fast Track legislation the derogation of the very powers that they seek to protect. I ask my colleagues to join me in opposing this Fast Track.

Now, this body stands to turn its back again on the American working men and women by engaging in this Fast-Track procedure.

I am new to public service, prior to the privilege of my office now, I was an ironworker for 18 years; I worked at the Quincy shipyard just outside of Boston, Steel Mills in Indiana, and GM plants in Framingham, and in Michigan. I've seen those jobs disappear with thousands of others because companies could exploit low-wage labor through unfair foreign competition. So, as you can see, I am not new to this issue.

The proponents of this bill, the President, Trade Representative Bob Zoellick, and others, seek to link Fast Track to our Nation's antiterrorism efforts. At times, claiming that not to support this bill is to be less than patriotic.

The truth is, however, Fast Track would do nothing to address America's security and economic needs in the wake of September 11. Fast Track neither rebuilds, nor does it restore, it does not heal and it will not bring America together. Instead it will work to continue to drive America apart—starting with the denial of an open and honest debate on this very floor.

The United States Constitution says Congress shall have the power to regulate commerce with foreign nations; and it shall have the power to make all necessary laws proper for carrying out those powers.

Fast Track is a procedural rule that would obligate us to resign our responsibilities on behalf of our constituents. It makes us give up our rights and responsibilities to the people who sent us here.

Mr. Speaker, I can without a doubt affirm that my constituents did not send me here to give away their rights or allow their voices to be silenced.

And in silence and secret is exactly how these trade negotiations will be carried out under Fast Track. U.S. Trade Representatives, who are not elected by the people, will be deciding and negotiating in closed-door backroom sessions.

It is a troublesome process we endorse by engaging in this Fast-Track procedure and we do not have to look far to see the example of failure in that process. We can look to NAFTA.

We see it in the fact that there are no enforceable labor and environmental standards in NAFTA or in the proposed expansion of NAFTA to 34 other countries under the Free Trade Area of the Americas Act.

While the bill raises the issue of labor standards and raises the issue of environmental protections, enforcement of these issues is recklessly absent.

It is easy to see, Mr. Speaker, exactly who benefits from an extension of NAFTA just by examining the juxtaposition of enforceable worker and environmental rights with the rights of investors.

Most troublesome are the protections that allow corporations to impose rules on the global economy that effectively mute competing voices and values, while undermining the sovereign capacity of a nation to defend its own citizens' broader interests by overriding established rights in domestic law.

We have seen the United States has lost millions of dollars to corporations who have successfully sued States under NAFTA's Chapter 11 bylaws claiming that government efforts to improve environmental standards impeded company rights. These are cases not decided in Federal court but in a NAFTA tribunal—again—behind closed doors. The State of California stands to lose $1 billion to the Methanex Company for trying to enforce laws that keep poisonous carcinogens out of gasoline.

In contrast we have seen what NAFTA has done for families, workers and the environment.

The impact of NAFTA on American jobs and worker's rights in member nations is astounding. In the 8 years of its existence, Trade Adjustment Assistance has tallied 800,000 American workers who have lost skilled, well-paid

jobs to import competition under NAFTA, the threat of factory relocations holds down wages for tens of thousands more.

Those who have lost their jobs are working, however—making a fraction of what they used to earn. And their jobs? They're held by workers in Maquiladora earning pennies on the dollar with no breaks, no rights to organize and no laws to keep children in school and out of slave labor. This bill is completely absent of any enforceable standard.

The sons and daughters of America's Greatest Generation should not have to compete with child labor and American workers should not have to compete with slave labor.

The American public should not be faced with the risk posed by the safety hazards and the emissions impacts of the 4 and half million Mexican trucks that travel over the border every year. Not to mention the contents of those trucks.

Less than 2 percent of those trucks—roughly 90,000 are ever inspected. Meaning many enter without the proper safety codes and emissions standards required by all 50 states.

Worse yet, the lack of accountability allows produce and meats to come into this country that do not meet the regulatory standards of the FDA—giving families the unfortunate prospect of not knowing if they're eating off the NAFTA diet.

We have seen examples of that, with the outbreak of Cyclosporiasis in seven States—California, Nevada, Maryland, Nebraska, New York, Rhode Island, and Texas (FDA source)—from the consumption of Guatemalan Raspberries contaminated with parasites. A virus that was allowed into this country because the produce did not undergo the FDA process and the sanitation process that is given to U.S.-grown produce.

It's accountability that is missing from these types of trade agreements. And without it, we are unable to guarantee protections and safeguards for the American worker and the American public.

At issue is not whether America should be part of the global economy but how it should be a part of the global economy. Before riding the fast track to more trade agreements, we ought to address the failures and pitfalls of prior ones.

Putting working families first ought to be a major priority especially in the wake of thousands of lost jobs during this recession. Congress has made bipartisan progress on a whole range of issues since then. What we now need to do is to take advantage of this high spirit of bipartisanship and put America's trade agreements on the right track by preserving Congress's legislative role; require negotiators to install provisions that will promote workers' rights, and require negotiators to develop trade rules that cannot undercut environmental laws.

We must do whatever we can to recapture the accountability entitled to the American people. The first step in doing that is to defeat fast track. I urge all of my collogues on both sides of the aisle to vote down this bill.

COMMEMORATING 25TH ANNIVERSARY OF ALLIANCE FOR COMMUNITY MEDIA

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. Mr. Speaker, I rise to help celebrate the 25th anniversary of the Alliance for Community Media. This is a nonprofit organization which was founded in 1976 to provide access to voices and opinions that otherwise would not be heard. The alliance promotes this idea through public education, progressive legislation, regulatory outreach, coalition building, and grassroots organizing.

The alliance's primary goal is to educate and advocate on behalf of the community at large. It works with the Federal Communication Commission, Congress, State legislatures, State regulatory agencies, and other partners to ensure that all people, regardless of race, gender, disability, religion or economic status, have access to available technology to express their opinions, to express their views.

In my congressional district back in Chicago and in the western suburbs, I use extensively this media to reach out to my constituents. We do a program called Hotline 21, where citizens can call in and voice their opinions and get answers to their questions. That is a 30-minute one. We do another one that is an hour where individuals come in and talk about public issues, public policy directors, notions, concepts and ideas. As a matter of fact, the group of community producers, individuals who have their own shows, who have learned how to use technology, how to use cameras, as a matter of fact, they have built up quite a following; and everybody knows that whatever it is that they want to get out, they can get it out through this media.

So I again commend the Alliance for Community Media, congratulate them on their 25th year anniversary; and I also congratulate their executive director, Bunnie Riedel, and her associates for having done an outstanding job and for having helped to keep alive the notion that as people talk and interact, share notions, ideas and concepts that really binds us closer together as a Nation, it helps to promote the concepts of democracy and it helps to make America a stronger, more open, more productive Nation.

SUPPORTING THE BIPARTISAN TRADE PROMOTION ACT OF 2001

The SPEAKER pro tempore (Mr. OTTER). Under the Speaker's announced policy of January 3, 2001, the gentleman from Virginia (Mr. CANTOR) is recognized for 60 minutes as the designee of the majority leader.

Mr. CANTOR. Mr. Speaker, I rise today in support of the bipartisan trade promotion Act of 2001 and encourage my colleagues in the House to support its passage when we take that crucial vote this week.

Mr. Speaker, I yield 10 minutes to my colleague, the gentleman from Virginia (Mr. SCHROCK).

Mr. SCHROCK. Mr. Speaker, I thank the gentleman for yielding, and I come to the floor this evening with a plea for the people of the district I represent. When the House votes Thursday to grant the President Trade Promotion Authority, I urge my colleagues to support this important measure.

□ 2015

The district I represent sits on the shores of the Atlantic Ocean at the mouth of the Chesapeake Bay. Millions of dollars' worth of goods pass through these waters every day, both from domestic sources and from our trading partners abroad.

The Commonwealth of Virginia is home to four State-owned ports, the Newport News Marine Terminal, the Norfolk International Terminals, the Portsmouth Marine Terminal and the Virginia Inland Port in Warren County, Virginia. At these ports, importers and exporters find an intricate transportation network, bringing maritime commerce together with road and rail transport. This network allows the goods brought into the ports to reach two-thirds of the American population within 24 hours. If a country or foreign company wants to do business with Americans, they will no doubt deal with the ports of Virginia at some point.

For this reason, the upcoming vote on Presidential Trade Promotion Authority is vital to the people of Virginia's Second District and for all Americans. On Thursday, we will consider granting the President Trade Promotion Authority to negotiate new trade agreements with foreign nations. It is the first step in gaining access to foreign markets for our economy and to open doors to other countries for similar access. This measure has a great impact on the residents of the district I represent because we live where the effects of trade are most evident.

When trade increases, more ships and barges come into these ports, packed with containers and creating the need for more people to handle these goods and ensure their safe transport to communities across the country.

Equally important is the impact that the trade has on the rest of the country. Increasing trade by removing trade and investment barriers benefits all Americans in the checkout line, giving them a wider choice of goods at better prices. Thousands of U.S. manufacturing jobs depend on exports, and TPA will open more foreign markets for these products, and American farmers will benefit as more markets open for their goods.

When the lack of free trade agreements makes our wages lower and makes goods cost more, this is a tax.

The fact that America is party to only a few trade agreements amounts to an invisible tax on the American people and holds back American prosperity. American exports are burdened by harsh tariffs, making those goods less competitive in foreign markets and hindering the success of American companies. Similarly, the lack of imports gives Americans access to fewer competitive choices, forcing them to pay higher prices at the checkout register.

The free trade agreements that America has entered into have been shown to benefit the economy and workers. Exports to Canada and Mexico have more than doubled since NAFTA was enacted in 1974. Higher exports translate directly into more business for American companies and more jobs for American workers.

The last time trade promotion authority for America was in place was in 1994. Since that time, the United States has not enacted a single free trade agreement with any Nation. This sends a signal to our potential trading partners that when TPA is not in effect, America is either not able to negotiate effective agreements or simply is not willing.

But we can send an equally strong signal to our potential trading partners on Thursday by telling them that we are ready to broker trade deals and we have the tools to do so efficiently. This vote will help us reaffirm America's role as the leader in international trade in order to bring better jobs and more business to America.

Naysayers will argue that Trade Promotion Authority should not be granted until it is guaranteed that we will impose labor and environmental standards on the countries with which we deal. We must remind ourselves that these agreements are with nations as sovereign as our own. We would disapprove of a country who required our Nation's factories to meet environmental standards or pay employees particular wages. Environmental and labor concerns are certainly causes worthy of our efforts, but attaching unnecessarily strict regulations to trade agreements only breaks down agreements and blocks access for American companies and consumers.

Experience has proven that free and fair trade gives way to higher environmental and labor standards abroad. As foreign economics grows as a result of trade liberalization, governments have a greater desire and greater means to enforce labor laws and environmental protection initiatives from within.

Perhaps the most important result of Trade Promotion Authority is that America will be able to increase its most valuable export, the ideals of freedom and democracy. Free and open trade allows other countries to see the benefits of capitalism and democracy. As President Bush has said, ''Economic freedom creates habits of liberty. And habits of liberty create expectations of democracy.''

Our vote on Thursday will send a message to our potential trading partners. I hope we do not send the message that Congress does not stand behind our President and that Congress wants to build up barriers to free trade. Rather, I hope that we can pass Trade Promotion Authority and send the message that America stands united, ready to do business, and ready to trade.

Our economy is now at a crossroads. We can take the road that leads to increased isolationism and give up hope of creating new global trade alliances, or we can choose to take the road that leads to increased trade, better American jobs, and a better standard of living for America and our trading partners.

I hope my colleagues will join me in ensuring that we travel down the path that leads to more opportunities and economic freedom for all of our citizens by supporting Presidential Trade Promotion Authority.

Mr. CANTOR. Mr. Speaker, it is now my pleasure to yield to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman from Virginia for yielding to me and for bringing this forum together for the discussion of an issue truly vital to Indian farmers, and congratulate the gentleman from Virginia for his leadership on behalf of agriculture and trade.

Mr. Speaker, I rise today on behalf of America's farmers and ranchers, particularly those serving eastern Indiana. Every evening they leave their sweat in the fields to ensure the good health and well-being of their fellow Hoosiers. They do so much for Indiana, and this Congress can do so much for them by simply granting the President desperately needed trade negotiating power.

Mr. Speaker, trade already benefits Indiana. Hoosiers exported an estimated $1.5 billion in agricultural goods in the year 2000. These exports helped boost farm prices and income while supporting 24,000 jobs on and off the farm in food processing, storage, and transportation. The numbers are truly staggering in Indiana alone: Soybeans and products, $543 million; feed grains and products, $470 million; live animals and red meats, $107 million; wheat and products, $69 million; and poultry and products, $55 million. An estimated $1.5 billion just from the 92 counties of Indiana.

Mr. Speaker, world demand for these products is increasing, but so is competition among our various and diverse trading partners. The reality is if Indiana's farmers and food processors are to compete successfully for opportunities ushered in by the 21st century, they need free trade and open access to growing global markets.

Let us quickly examine previous trade agreements and how they have assisted my home State. As the Nation's sixth largest corn producer, Indiana benefited directly under the North American Free Trade Agreement when Mexico converted its import licensing system for corn to a transitional tariff rate quota. Under this system, the volume of U.S. corn exports to Mexico has nearly tripled since 1994, reaching 197 bushels valued at $486 million in the year 2000. Additionally, under NAFTA, Mexico eliminated import licensing and is phasing out tariffs for wheat all together. Wheat exports to Mexico have doubled from Indiana since 1994.

Mr. Speaker, the Uruguay Round agreement has also benefited Indiana in its capacity as America's fourth largest soybean producer. South Korea continues to reduce its tariffs on soybean oil, a process that has already supported a threefold increase in our export volume. The Philippines is doing the same for soybean meal.

So, Mr. Speaker, you can see that our existing trade agreements have truly benefited Indiana and the entire United States. So why do we need additional trade agreements in the form of TPA to help our Nation's farmers and ranchers? Let me offer a few reasons.

Number one, exports are the lifeblood of American agriculture. Without Presidential Trade Promotion Authority, we risk losing our existing share of foreign markets to other competitors.

Second, with TPA, we can begin in earnest with a round of WTO talks where the greatest gains will be made in agricultural trade.

Third, the only way to fix the problems that have emerged under existing agreements is to use the credibility of Trade Promotion Authority with the President of the United States at the negotiating table.

Additionally, growth in purchases of U.S. food and agricultural products is most likely to come from the 5.9 billion people who live outside of the United States of America. If we do not supply their needs, Mr. Speaker, someone else will.

Fifth, economic studies show that the most significant growth in demand for agricultural products is in societies with emerging middle classes. Middle-class families spend an increasing portion of discretionary income on food. The next decade is expected to usher in 250 million Indians and 200 million Chinese to the level of middle class. These markets will be the strongest for growth in commercial food demand.

Also, some of the highest growth in food demand is occurring in Asia. Only with Presidential Trade Promotion Authority can we tear down the barriers and eliminate tariffs in that region to maximize our economic opportunities.

Additionally, other countries are moving forward without us. The European Union, Mexico, Canada, and Latin

America are negotiating new free trade agreements that do not include the United States. There are 130 agreements that exist today, and only two of them include the United States of America.

Allow me to repeat that again, Mr. Speaker. There have been, over the last decade, been negotiated worldwide with our competitors in agriculture and elsewhere, 130 trade agreements, of which the United States is party to 2.

Also, world agriculture tariffs today average about 62 percent, while U.S. tariffs average 12 percent. Trade Promotion Authority and other trade agreements can only eliminate foreign barriers such as this.

Ninth, other countries are more likely to agree to WTO negotiations pertaining to strengthening world prices if the President is armed with Presidential Trade Promotion Authority.

And last, Mr. Speaker, this Congress can no longer afford to stand idly by while other nations' governments improve trading opportunities for their citizens and their industries and their agricultural sector. Leadership and action by Congress must no longer be delayed. Congressional passage of Presidential Trade Promotion Authority is absolutely essential, and I hope that Congress will do so this week.

And let me say I support Trade Promotion Authority to assist Hoosier farmers. I urge my colleagues to help their farmers as well. But also, Mr. Speaker, and I say this somewhat in jest but in a great deal of seriousness, I believe that this President has earned the confidence of the American people in the days of the fall of 2001. Trade Promotion Authority for the President of the United States asks one simple question: Do you trust the President of the United States at the trade negotiating table to put American agriculture, to put American interests, to put American jobs first?

Well, I, Mr. Speaker, today do not believe I am in the minority when I say that I trust the President of the United States of America to put American jobs, American interests, and American agriculture first. I trust President George W. Bush, and I hope that all of my colleagues will join those many millions of Americans who have found this President truly trustworthy and give him the authority he needs to advance our interest in agriculture and for our entire economy by adopting Trade Promotion Authority.

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Mr. CANTOR. Mr. Speaker, I thank the gentleman for his eloquent remarks.

Mr. Speaker, I yield to the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. Mr. Speaker, I thank the gentleman from Virginia for putting together this opportunity tonight for us to talk about Trade Promotion Authority. We know that is going to be coming up later this week; and so the information, and there has been a lot of disinformation, I think we heard some of that during the 5-minute Special Orders tonight, disinformation that is being put out into the idea marketplace.

Trade Promotion Authority has been much discussed over the last few weeks, anticipating this vote that we are going to have later this week; and I would like to share a little information about how Trade Promotion Authority will benefit not only Idaho, but our 49 sister States as well.

Let me start with something I know best. Idaho is the world's foremost producer and processor of potatoes. We plant over 380,000 acres a year, and we yield well over 100 million hundred weight as a result of those plantings. Most of those potatoes are processed into products which find themselves into the marketplace and restaurants throughout the world.

Idaho potatoes dominate almost every market they have ever gone into. I traveled to some 80 foreign countries and opened many McDonald's throughout the world with the JR Simplot Company because we had the best potatoes in the world, and those best potatoes came from Idaho.

One of those markets that I was part of opening up was in Chile. Today, as a result of our inability to get a seat at that negotiating table, Canada and Chile came together and put together a trade agreement. Idaho no longer shares in that market because that agreement, when we did not have a seat at that table, pushed the Idaho potatoes out of the market.

What concerns me even more than the fact that we are losing some of these markets to some of our foreign competitors is the fact that we are now starting to lose situs for some of our best processors, some of the best processors in the world, some of them historically proven since Birds Eye first discovered how to freeze and then reconstitute products, adding portability and shelf life to some of the best vegetable products throughout the world, and that happened in the early part of the last century.

Some of these best products and their processors are now reducing the size of their plants in the United States south of the Canadian border and are actually expanding some of their potential to be in these foreign markets in plants in Canada, and the result is because Canada has Trade Promotion Authority and they have a seat at the table that they can go to the markets throughout the world and negotiate trade agreements.

Idaho's wheat producers is another example. They are also suffering from our inability to enter into new agreements. The Idaho National Wheat Growers for that purpose and that purpose only are supporting the passage of Trade Promotion Authority. We have documented evidence of how trade has benefited our farmers.

Since the passage of NAFTA, U.S. farm exports to Mexico have doubled. The more trade agreements we enter into, the more food we can sell, because 90 percent of the world's people live outside of the United States. Ninety percent of the mouths that sit down to that plate every night, three times a day, 90 percent of those plates are served in other parts of the world, not the United States. If we are not going to be part of those agreements, if we are not going to have a seat at that table, to whom are we going to be able to sell the increased production that we have from our farms?

The U.S. only consumes about two-thirds of what American farmers always produce because they are the best and most prolific in the world. Without our foreign markets, already depressed prices could be much lower. We need foreign markets to maintain our current production and to increase our market potential in the future. Because the United States has more productive farmers in the world, other nations maintain extensive subsidies and trade barriers and trade walls. The average American agriculture tariff is 3 percent, whereas in Europe it is 15 percent; and worldwide the average is well over 40 percent.

In addition, the European Union maintains export subsidies of up to 75 percent greater than those that we have in America. Passing the Trade Promotion Authority, giving our President the opportunity to sell our wares, to strut our stuff throughout the world will help further our national goals by allowing the President to sit down and negotiate these deals. We will be able then to eliminate trade barriers, and our products will increase our exports and be able to reduce the export subsidies throughout the world.

Let me share some of the state barriers that our farmers all over the United States currently face. In Australia, a monopoly wheat board now sets the price of wheat. American farmers are therefore priced out of one of the most important markets in the world. In Canada, a monopoly wheat board also competes against the United States in world markets.

Mr. Speaker, passing the Trade Promotion Authority would speed the negotiations to remove these wheat boards from their position of power and monopolistic predatory practices in the world marketplace. Idaho is the fifth largest spring wheat producer in the country, and I would not promote Trade Promotion Authority if I were not certain it would benefit our farmers.

China currently imposes restrictions on which varieties of apples, of which Idaho is one of the best producers, that

they can import into their country. Currently only three varieties can be imported into China, and the two versions that are actually favored by the Chinese consumer cannot be brought in because of trade barriers. With Trade Promotion Authority, we could negotiate an end to these barriers and benefit our apple farmers.

Similarly, Taiwan maintains a 40 percent tariff on apples and that needs to be reduced and could be through the passage of Trade Promotion Authority.

Mr. Speaker, I could go on and on; but I would simply like to demonstrate for this House and for those who are listening, Idaho's director of agriculture, Mr. Takasugi, has prepared ''Idaho Trade Issues: An Action Plan.'' This was produced earlier this year. As the Lieutenant Governor of Idaho, I led trade missions throughout the world. I visited some 80 foreign country. Mr. Takasugi went with me to many of those. We were able to break down barriers because we were sitting at the table when we had the opportunity to overcome some of the differences we had with some of these foreign countries.

Mr. Speaker, this is a 54-page booklet that itemizes every trade barrier that Idaho and Idaho's farmers face in every country of this world, and I would like to provide this booklet to any Members who do not believe that passing Trade Promotion Authority to the President would not be a valuable asset for this country and its economy and the producers.

Some may say Idaho is a small State and we have nothing to gain from Trade Promotion Authority and that it is actually a coastal issue; and I am saying nothing could be further from the truth. Last year, Idaho's exports alone were $826 million. That may not sound like an awful lot to a lot of folks; but my 1,285,000 people thought that $826 million in sales to foreign countries was terribly important. A lot of families are able to provide for themselves and provide for their future because of that $826 million.

Let me break it down: $303 million was potatoes and other vegetables; $151 million in wheat products, $98 million in livestock; $54 million in dairy products; and $51 million in feed products.

More than 12,000 Idaho jobs depend upon exports. As I said earlier, our ability to process this food into a portable and into a storable product is one of the things that has got us into these foreign markets.

I am also aware of the concerns of those who are afraid of H.R. 3005 because it means an end of our anti-dumping and countervailing duty legislation. If I thought that was the case, I would be opposing this instead of here helping the gentleman from Virginia (Mr. CANTOR) and our other folks champion this effort. I know firsthand the effects of illegal dumping and the value of our anti-dumping laws. Voting for the Trade Promotion Authority is neither an endorsement of repealing anti-dumping laws, nor a repudiation of the English resolution that this House passed with such an overwhelming majority just last month.

Mr. Speaker, earlier in the last century a fellow by the name of Hans J. Morgantheau said when food does not cross borders, troops will. When we look at most of the problems of the world that have been associated with folks who have something and it is desired by folks who do not, those troops cross the border.

I have said twice now and at the risk of repeating myself, I have been in 80 foreign countries, and I have negotiated with every manner of government in every way that I possibly could for every kind of product; and having a seat at that table and being right there, face to face with the potential buyer, is the most important thing we can do.

Trade Promotion Authority, Mr. Speaker, gives us a seat at that table. Trade Promotion Authority will indeed manifest the value that Hans J. Morgantheau put into his idea that when we are trading with people, we are building a relationship, and that relationship then leads to an exchange of values and an exchange of goals and eventually an exchange of ideas and peace.

For those Members who may doubt the value of trade, I direct them to a book called ''The Lexus and The Olive Branch,'' Chapter 6, and it is called ''The Golden Arches Theory of Peace.'' No two countries that ever received a McDonald's franchise since they received that franchise have gone to war because they understand the value of a relationship and a trade consumer and a provider and supplier-consumer relationship.

Mr. Speaker, I urge my colleagues to join me and all of those who are speaking on it tonight in passage of H.R. 3005, and assure that we can unleash the power and the potential of the American farmer and the American trader.

Mr. CANTOR. Mr. Speaker, I thank the gentleman from Idaho (Mr. OTTER) for that very well thought out and impassioned plea for the passage of the President's Trade Promotion Authority.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, I thank the gentleman from Virginia (Mr. CANTOR) for organizing this Special Order and rise in support of Trade Promotion Authority.

One-third of all American families depend directly or indirectly on foreign trade for their income, and America is the number one exporting nation in the world. But unless we act to promote fair and free trade, this leadership will fade. Trade Promotion Authority ensures that the United States will have better access to foreign markets while strengthening domestic industries.

An increasingly important force behind our Nation's economic growth is the high-tech sector. In the past 5 years, high-tech industry accounted for one-third of the growth of our gross domestic product. It lowered our inflation rate and created 1.5 million new high-paying jobs. Overall, the world market for IT products rose steadily to $1.3 trillion in 2000 and is expected to grow as companies take further advantage of the Internet and e-commerce.

In the United States, the information sector employment rose by 15 percent from 1997 to over 2 million jobs last year. Additionally, more than half of the 2.6 percent increase in U.S. labor productivity between 1996 and 1999 was directly related to increasing investment in IT. What may not be known is that U.S. high-tech companies exported $223 billion in merchandise last year. In Illinois, the number of companies exporting increased by 50 percent from 1992 to 1998.

Mr. Speaker, Motorola, which is based in Chicago's northern suburbs, is one of our Nation's leading exporters of high-tech goods. In the past several years, their exports have increased steadily. Last year almost two-thirds of Motorola's sales were exported. Additionally, thanks to the innovation of the Internet and e-commerce, health care companies such as Allegiance and Medline, based in northern Illinois, greatly contributed to overall Internet sales transactions worldwide, providing critical health care supplies for hospitals both here and abroad.

Allegiance alone provides goods to over 80 countries and has 20 subsidiaries worldwide. These companies support incomes of thousands of families in Deerfield, Vernon Hills, and Libertyville.

□ 2045

If we grant the President Trade Promotion Authority and these employees continue to take advantage of the Internet, more jobs will be created in Illinois's high-tech sector.

New markets represent an enormous opportunity for high-tech industry to maintain our global leadership. With 500 million people living south of our border and Latin America with only 18 million personal computers on hand, now is the time to open new markets to America's high-tech goods.

While the Information Technology Agreement eliminated duties in the IT sector in some major markets, the larger markets of Latin America are not a party to this agreement. Tariffs on IT products in key Latin American countries remains as high as 30 percent. Beyond tariffs, IT products also face nontariff restrictions such as redundant testing and certification requirements. U.S. suppliers, including

those in Illinois, will see a rise in job creation if these barriers are lifted. And if we act now and give trade promotion to the President, we can accomplish this.

Opportunity is a two-way street. Opening markets in Latin America to computers and the Internet will help modernize their economies while, at the same time, promoting free markets, competition, and improved quality of life. As computer and new technologies bring opportunity for economic growth in Latin America, U.S. jobs will be created.

Since NAFTA was enacted, the United States exports to Canada and Mexico have increased 104 percent. Every day, America transacts an estimated $1.8 billion in trade with our NAFTA partners at a rate of $1,200,000 a minute. In 2000, America's exports to our NAFTA partners grew 30 percent faster than to exports to the rest of the world. Since 1992, open markets with Mexico and Canada created more than 20 million new jobs in the U.S., with wages and workers supported at incomes 13 to 18 percent higher than the national average. NAFTA is a proven trade agreement that has led to success for American business.

If we fail the President on Trade Promotion Authority, we will fall behind the curve and the cost will be American jobs. Already, nations worldwide have entered into an estimated 130 preferential trade agreements, while the United States is just party to two, one being NAFTA and the other with our allies in Israel. Only 11 percent of the world exports are covered by American trade agreements, compared to 33 percent for European Union free trade agreements and Customs arrangements. We must act now, and every day America delays, America loses. Communities, families, businesses, and workers lose opportunities and income that could come with expanded markets for American goods and services. During this time of economic uncertainty, it is crucial that we grant the President Trade Promotion Authority to open new opportunities for American businesses and to preserve American jobs.

Past trade agreements have benefited the typical family of four in Illinois by $1,300 per year. Illinois exports totaled over $2,500 for every man, woman, and child in our State. Over 350,000 Illinois families depend on exports for their income, with another 150,000 indirectly depending on export business. Since 1993 and the conclusion of the Free Trade Agreement with Mexico and Canada, Illinois increased our exports to those two countries by 73 percent.

Let me look at one key industry: environmental technology, which grew its exports to Mexico by 385 percent. Exports from the city of Chicago alone totaled $21 billion last year. Over 1,400 businesses in Illinois exported last year, and 86 percent of them were small- and medium-sized companies.

Take the case of Fluid Management in Wheeling. Over 60 percent of the company's business depends on exports. Mr. Speaker, 360 jobs alone. And Fluid's skilled engineering force grew from 6 in 1989 to over 100 by 1996. The firm has expanded here, at home, and in Australia, Europe, and Latin America. After NAFTA, Fluid opened offices in Latin America. The total number of exporting companies in Illinois grew from 9,400 to 14,200 and, in sum, Illinois exported over $32 billion last year to 208 foreign markets.

That is why we need to pass Trade Promotion Authority in this Congress, and, once passed, we will lower tariffs against American goods and enable exports to lead our country out of recession.

Mr. Speaker, I want to thank the gentleman from Virginia (Mr. CANTOR) for organizing this Special Order on the need to boost exports in America. They are important for Virginia, and they are important for my State of Illinois.

Mr. CANTOR. Mr. Speaker, I thank the gentleman from Illinois (Mr. KIRK), my good friend, and join with him in that heartfelt statement of support for the Trade Promotion Act of 2001, which we are poised to vote on here in this House this week, on Thursday.

Mr. Speaker, the economists have announced what many Americans have known for months. America is officially in recession, and granting the President Trade Promotion Authority will allow him to negotiate trade treaties that will create jobs and deliver a much-needed boost to our economy. The real cost to American business of not granting the President Trade Promotion Authority is that other countries will continue to negotiate free trade agreements to the exclusion of the United States and its interests, putting American businesses at a competitive disadvantage.

Two vital sectors of America's economy that have suffered greatly during the recent economic downturn here in this country will benefit most from Trade Promotion Authority, and those are the sectors that we are focusing on tonight and that have been spoken to on the part of my colleagues, and they are the agricultural and high-tech sectors.

Mr. Speaker, I would like for a minute to focus on the Commonwealth of Virginia and how it benefits from increased trade. My district, the southern district, and the Commonwealth of Virginia as a whole, strongly benefit from America's current trade activity. We, like America, benefit from a vibrant international trade environment. Last year, Virginia sold more than $10.5 billion of exports to nearly 200 overseas markets. Virginia exported more than $9.2 billion of manufactured items such as machinery, transportation equipment, computers, and electronics, fabricated metal products, and beverage and tobacco products. The number of Virginia companies exporting increased 62 percent from 1992 to 1998. Demand is growing for the top five agricultural products exported from Virginia, including tobacco leaf, poultry products, live animals and red meats, wheat products and soybean products.

Here are some of the benefits that we stand to gain from increased trade in Virginia. Nearly 60,000 manufacturing jobs are tied to exports. Roughly 6,000 Virginia citizens hold jobs related to agricultural exporters. Jobs supported by exports in Virginia are 13 to 18 percent better paying than the national average. In 1997, an estimated 42,000 Virginia jobs depended on or were indirectly related to manufactured exports, and 1 in every 7 of the manufacturing jobs in Virginia is tied to exports.

Mr. Speaker, no doubt that one of the tremendous engines for the Commonwealth of Virginia and the Nation as a whole and our economy has been the high technology sector. This industry is particularly affected by the absence of Presidential Trade Promotion Authority, and it is this industry which also will stand to benefit most in terms of job creation and increased productivity across this land.

Firms in the United States face many obstacles in the global market such as high tariffs and regulatory burdens. These facts inhibit the competitiveness of American firms. Such obstacles, if not removed, will ultimately lead to the loss of American jobs to our foreign competitors, adding fuel to the fire of the already stalled American economy and associated job layoffs.

Obstacles exist such as the soaring tariffs. These tariffs on American information technology products, scientific instruments, and medical equipment being sold in countries with which the United States does not have trade agreements reduces American competitiveness with the indigenous goods produced in that target country and our foreign competitors. Second, American companies face regulatory barriers on trade of information technology and communications products that are in place without trade agreements. Absence of Trade Promotion Authority, make no mistake, results in countries being unwilling to negotiate trade agreements with the United States. And why would they agree to negotiate with us if a deal as struck is not really a deal? As was stated before by the gentleman from Indiana (Mr. PENCE), I think our President, Mr. Bush, has earned the confidence of the American people and we must confer upon him Trade Promotion Authority to make sure that our American businesses stay competitive in the global marketplace.

Mr. Speaker, to give my colleagues an example of a free trade agreement,

most trade between Brazil and Argentina is now tariff free, while U.S. firms still face an average tariff of more than 14 percent on exports to those Western Hemisphere countries and neighbors of ours. Foreign Ministers from both Brazil and Argentina have suggested that they cannot negotiate trade agreements with the United States until the President has Fast Track authority.

Granting the President Trade Promotion Authority will allow him to negotiate trade treaties that create access to new markets for the high-tech industry. Access to new markets will be a major force behind the success of our technological community and the job growth therein. This success will be obtained by allowing companies to expand their markets and their sales in developing countries in order to continue the rapid expansion of the high-tech industries here at home.

As an example of how important opening up foreign markets is to American companies, this is a staggering statistic: 58 percent, that is, nearly 60 percent of Microsoft's revenues, is derived from international sales. Passage of TPA will allow companies like Microsoft to continue to increase their revenues in the global marketplace, and at the same time we are opening up new markets we are growing the job base here in America.

Trade agreements could also help establish the framework for additional e-commerce by American firms between those businesses and their customers abroad. High-tech products from America will be available at lower costs as these markets continue to open. If we have the ability to enter into more bilateral trade agreements, American goods and equipment will begin to show up in more countries and more markets, in much greater numbers and at much more competitive prices.

Recently, President George W. Bush addressed a meeting of leaders in the high-tech industry. The President expressed his vision of a world with increased free trade and described trade's benefits for the U.S. economy. And he said, ''Ours is an administration dedicated to free trade. I hope that Congress gives me Trade Promotion Authority as soon as possible so I can negotiate free trade agreements. We should not try to build a wall around our Nation and encourage others not to do so. We ought to be tearing these walls down. Free trade is good for America and it will be good for your industry as well.''

Mr. Speaker, another aspect within the international trade environment which is providing obstacles, especially in the area of the high-tech sector, is the issue of piracy. Piracy is currently costing the high-tech sector in America a tremendous amount of revenues. The protection of American know-how is another benefit and an essential part of TPA.

For example, 58 percent of business software applications used in Latin America were pirated in the year 2000, costing the software industry in our country nearly $869 million in licensing revenues. In 1998, Latin America's software market generated approximately $3.5 billion and is expected to grow by 18 percent annually.

□ 2100

Latin America is currently considered a region where a free trade agreement could occur fairly quickly with the United States. This is a region that provides a huge opportunity for the U.S. software industry. TPA will allow the President to negotiate trade treaties that will combat piracy by making intellectual property protection a fundamental condition of membership in multilateral and bilateral trade alliances. It will also open wide this natural growth market to the south for all American businesses, thereby increasing the job base in America.

Singapore is also a natural destination for the President and his team of negotiators to engage in talks and produce a bilateral trade agreement to open up markets to United States business. Intellectual property reforms in Singapore and cooperation in that country with policymakers have created an environment prepared for increased high-tech trade. We must allow President Bush to take advantage of this conducive environment and lock in the opportunities for American businesses in that country with a bilateral trade agreement with Singapore.

The issue of privacy is certainly linked and has as its pillar the protection of intellectual property owned by American businesses. If America's copyright industries are to continue to be successful in the world markets, the President must be able to effectively negotiate trade agreements that reduce barriers to creative works in America. Trade agreements are the vehicle to license and insure the continued growth of the industry in America. That is why the International Intellectual Property Alliance supports Trade Promotion Authority.

A recent report indicates that the copyright industries, including computer software makers, music, computer hardware, and many more, they employed more than 7.6 million Americans in 1999. Mr. Speaker, my colleagues before me have stated the many benefits that NAFTA has conferred upon this country.

Eight years ago last month, the House of Representatives debated and passed the North American Free Trade Agreement. It has produced a tremendous growth in trade for the United States and our two partners, Mexico and Canada. Trade with our NAFTA partners is growing twice as fast as U.S. trade with the rest of the world and accounts for approximately one-third of all U.S. merchandise trade.

NAFTA trade exceeds trade with both the European Union and Japan combined, approximately $1.8 billion a day, as was pointed out earlier. NAFTA has kept Mexico on track to sustain internal economic reform, which in turn has helped the United States. NAFTA has resulted in reduced tariffs for American goods, benefiting American companies and American workers.

Under NAFTA, Mexico eliminated its 15 percent tariff on live slaughter cattle, its 20 percent tariff on chilled beef, and its 25 percent tariff on frozen beef. Mexico has been the fastest-growing market for U.S. beef. U.S. beef exports to Mexico rose from the 1993 pre-NAFTA level of 39,000 tons valued at $116 million, to 179,000 tons valued at $531 million in 2000.

In the year 2000, 73 percent of Mexican imports were products from the United States: capital goods, from road-building equipment to hospital instruments; consumer goods from Mexico's emergent middle class; everything from blue jeans to compact disks and food. NAFTA led to a stronger economy, which led to improved living standards for Americans.

Examples in my home State of Virginia: the Jones Group International, based in Fairfax, illustrates how an increasing number of American small service companies are competing in world markets. This firm provides consulting services for developing countries.

The Regional African Satellite Communications Organization contacted the company in 1999 to develop two detailed documents, one for technology transfer and the other for know-how and an assistance program.

Millicom International Cellular. This Arlington, Virginia-based telecommunications company announced in 1998 that SENTELgsm, a 75 percent Millicom-owned company, has been awarded a nationwide global systems for a mobile communications license for the Republic of Senegal.

The company plans to embark on a rapid development program to build and launch a GSM mobile network to initially launch service in Dakar, with plans to expand coverage to all the regional capitals.

The license award is for a period of 20 years, renewable every 5 years thereafter. The firm reports that this significant investment will result in nearly $10 million in U.S. exports and will create or retain more than 100 U.S. jobs.

In a recent speech, Commerce Secretary Don Evans summed up the benefits of Trade Promotion Authority: ''The President is also committed to keeping electronic commerce free of roadblocks, ensuring the protection of intellectual property rights, and the strict enforcement of our trade agreements. But to achieve these goals in a successful trade policy that serves the

interests of American business and American workers, the President needs Trade Promotion Authority.''

Without TPA, other nations will continue to refuse to negotiate treaties with the United States.

Mr. Speaker, it is vital for our economic interest and security that the United States set the trade agenda for the world market.

HONORING LEW RUDIN

The SPEAKER pro tempore (Mr. SCHROCK). Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, if anyone watching tonight has ever called New York ''the Big Apple'' or uttered the words ''I love New York,'' I hope they will join me tonight in remembering the man who brought those phrases into the public domain. His name was Lewis Rudin, but he was better known as ''Mr. New York.''

On September 20, at the end of his 74th summer, Lew Rudin died of cancer. We all know what happened in New York 9 days earlier. As we look to rebuild and renew New York after the tragic events of September 11, we must do so with Lew Rudin's vigor, vision, imagination, spirit, and wholehearted love for our great city.

At a time when the city's skyline has two gigantic cavities, I take heart in knowing that it is populated with so many buildings developed by Lew and his family. The Rudin family has never sold a building it developed, embodying a virtue that too few people value and practice today, and that is loyalty. Lew was fiercely loyal to his family, his friends, his city, and his father's commitment to rewarding New York because New York had rewarded his family.

Lew was a tireless booster and advocate for New York City. He co-founded the Association for a Better New York, which has lived up to its title time and time again. It has also brought us better schools, improved transportation, and cleaner and safer streets. The association became a watchdog, rewarding those who enhanced our city with Polished Apple Awards.

Lew Rudin bet on the city, even in its darkest hours; and he bet right every time, in part because he helped solve the city's biggest problems. In the mid-1970s he helped rescue New York from the brink of bankruptcy by convincing corporations to prepay their property taxes.

He beat back an effort by the President of the United States to abolish deductions for State and local taxes, which could have caused an exodus of businesses operating in the city.

He persuaded the U.S. Tennis Association to move within Queens, rather than outside of New York. He gained landing rights for the Concorde, enhancing our stature as the business capital of the world. He helped expand the New York City Marathon to the five boroughs. Today, 30,000 athletes participate and millions watch around the world.

Lew worked with me recently to transform the dream of a Second Avenue subway into a reality, and he championed the cause of bringing the Olympics to New York in 2012.

Serving in various roles, Lew was a leader and member of a broad array of New York institutions, from North General and Lenox Hill Hospitals to Central Synagogue and Ford's Theater to Meals on Wheels and New York University. His enormous contributions to so many institutions made Lew Rudin an institution unto himself, and prompted the New York City Landmarks Conservancy to designate him a living legend landmark.

Anything Lew Rudin loved, he also served. An avid golfer, Lew founded First Tee, which was dedicated to bringing the game to the inner city. He knew how to get things done.

But as a third-generation American whose grandfather immigrated from Poland with only the change in his pocket, Lew did what he did mostly for ordinary New Yorkers: he fought to improve their quality of life, enhance the resources available to them, and to make a very special city all the more unique.

Lew Rudin left behind a tremendous legacy of visible accomplishments, but he is also responsible for all sorts of contingencies that never came true, crimes that did not happen, companies that did not leave, criticisms of New York that were not uttered because Lew's efforts made them invalid.

Tonight we honor Lew Rudin with kind words, but tomorrow we must honor his memory with good deeds. Mr. New York, we thank you, we miss you. May you sleep in heavenly peace.

Mr. Speaker, I include for the RECORD other eulogies and statements regarding Lew Rudin:

EULOGY BY DAVID N. DINKINS—FUNERAL SERVICES FOR LEWIS RUDIN CENTRAL SYNAGOGUE, NEW YORK CITY—SUNDAY, SEPTEMBER 23, 2001; 10:00 A.M.

Rabbi Rubinstein; Cantor Franzel; Rachel; Jack and Susan; Beth and Clift, Billy and Ophelia; Carlton and Kyle, Samantha and Michael; Eric and Fiona, Madeline and Bruce Grant, Kathy and Nancy; President Clinton; Governor Pataki; Senator Schumer, Senator Clinton; Mayor Giuliani; Governor Cuomo; and the many other family and friends here today to remember Lewis Rudin.

I have always looked upon Lew as a brother, and I am feeling an unspeakable sorrow at his passing. I ask your forbearance as I attempt to share my thoughts.

I am reminded this morning of two others who regarded each other as brothers—the great theologians and activists, Rabbi Abraham Heschel and Dr. Martin Luther King, Jr. It was Rabbi Heschel, author of the definitive text ''What Manner of Man is the Prophet?,'' who was called upon by Coretta Scott King to eulogize her husband who, parenthetically, was later the subject of a fine biography by Lerone Bennett, entitled ''What Manner of Man.''

As the biblical reference that moved both Heschel and Bennett told us, the world is yet in awe of that manner of man who ''even the wind and the sea obeyed'' upon his command ''Peace, be still.'' Rabbi Heschel and Dr. King have long since found their answers to the question, ''What manner of man?'' And today, we each have our own answers . . . with respect to the man, Lewis Rudin.

What manner of man is this that even the wind and the sea obey? Well, we know that our dear friend was a powerful man, though not perhaps so powerful that he could literally calm the wind and the sea. He did, however, have the power to calm an entire city in its times of storm and crisis. He not only had such power, he used it on every occasion that threatened his city's future. And he used it well. We will hear the truth of this often this morning, and rightfully so, for we are thankful for the strength, the wisdom, and the love that guided him in his mission here on earth.

What manner of man was Lew Rudin. Lew Rudin was a man whose name became known to every New Yorker. He was, as many have said and will always say, ''Mr. New York.'' He earned that title. His extraordinary passion for his City and his spirit of public service will live on in our hearts as long as there is a New York. To Lew Rudin, New York City was more than a place . . . it was a people—a people whose struggles and joys, uniqueness and oneness, touched his heart and moved him to take on our burdens as his own.

What manner of man? Many knew what manner of man he was by his deeds. He was a moving force and guiding light behind so many of the things that have become part of the fabric of New York—the many buildings of the most famous skyline in the world; the New York City Marathon and its Rudin Trophy, born of a collaboration of Percy Sutton, George Spitz and Fred LeBow (it was Percy Sutton who introduced me to Lew); the USTA National Tennis Center (a result of the hard work done with then USTA President Slew Hester) and later the realization of Arthur Ashe Stadium (when David Markin and Judy Levering were President); the ''Big Apple'' and campaigns; and so many other things that make New York, New York.

Lew Rudin was always there, in times of joy and times of triumph,

leading the cheers for this City and making things happen. But, as we know now too well, all is not joy and triumph. And it was during times like these—the toughest of times—when Lew Rudin's ''polished apple'' shone brightest. He knew, as did Dr. King, that: ''The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy.''

It was Lew Rudin who stood with Abe Beame on the deck of what was then considered a sinking ship, and brought us in to a safe port. They refused to deliver up New York City to default. Instead, with the help of other faithful New Yorkers—Governor Hugh Carey, Victor Gotbaum, Felix Rohatyn, Barry Feinstein, Jack Bigel, among them—they weathered the storm of the most severe fiscal crisis this city has ever seen.

And, with a national coalition in which Senators Moynihan and D'Amato, Cardinal O'Connor, Jay Kriegel, and my other brother Charlie Rangel played pivotal roles, Lew went toe-to-toe with the President of the United States to fight off an attempt to abolish deductions of state and local taxes—a move that would have caused corporations to flee our City. It couldn't have been done without Lew Rudin. This City is, indeed, in his debt.

Lew Rudin was the heart of what has been called the ''Naked City'', a phrase all the more poignant in light of the events of September 11th. And he gave us so much more than magnificent structures and symbols. He gave us an unparalleled example of civic responsibility and commitment. And, man, do we need him now! In his final days, he was so proud of his fellow New Yorkers . . . of his City's spirit and resilience. He was proud of our resolve to rebuild our structures and reclaim our lives. He applauded the heroic efforts to rescue the missing, honor the dead and restore order to the City he helped to build, helped to save, and loved so dearly.

Lew Rudin was, indeed, a true friend to this City. And he remained a true friend to his dying day. And this he did because he had a deep and abiding commitment and caring for the people of New York. For all of the people of New York. So many times, Lew Rudin was the only white person in a sea of black and brown faces, whether occasioned by a time of conflict or a time of celebration. Without fail, the annual gathering of the One Hundred Black Men and the Association for a Better New York found Lew and Jack, Howard Rubenstein, Bob Tisch, Alan Tishman, Al Marshal, Burt Roberts and others in brotherhood with Bruce Llewellyn, Arthur Barnes, Roscoe Brown, Luther Gatling and Paul Williams. Lew always welcomed, and was always welcomed by all the communities of this City.

Lew Rudin lived his life according to very basic principles. He was heir to a family philosophy taught by his beloved parents, Samuel and May, that giving is its own reward . . . and giving of self is glorious. He shared that philosophy with Jack, and passed it on to his son Billy and daughter Beth. He gave his all to this City and its people, and gave of himself to many of us as individuals.

Those of us who had the great good fortune to know him as a friend and brother have been blessed to know intimately . . . what manner of man he was. Joyce and I will miss you, Lew. Our lives are so much fuller for having known you. You gave us the gift of your wisdom and humor, your counsel and your support . . . you gave us the gift of your friendship. And there is no greater gift. The City of New York is a better place because you were here. And we promise you, Lew, that we will not permit your City to remain buried in ashes. We will rebuild, we will restore, we will reclaim.

The death of Lew Rudin gives us reason to mourn. But his life gives us so much to celebrate. Lew Rudin has left us with more than memories—he has left us a rich legacy of his friendship, a legacy of caring, and a legacy of doing for others. It is said that service to others is the rent we pay for our space on earth. Lew Rudin departed us paid in full. Let him not look down and find any of us in arrears.

EULOGY BY IRA HARRIS—FUNERAL SERVICES FOR LEWIS RUDIN

Louie . . . when Rachel & Bill called Monday and said you wanted to see all your friends I cried as I realized there was going to be no more golf games or early morning or late night phone calls. When you asked me to speak today I felt like I had just been given the greatest honor one could receive.

I want to talk about Lew Rudin, the friend that so many of us were so privileged to have. The guy with whom I spend so many good times on the golf course. The guy who had that great sense of humor. I remember the gleam in your eye when we found out the first time I played the Nabisco-Dinah Shore, that my celebrity partner was not one of the great sports heroes like Frank Gifford or Bobbie Orr, or a movie star like Kevin Costner, but you, ''Mister New York''. I gave you the needle when I told you that I was going to ask for my money back, but you then reminded me that I was a guest of RJR.

President Ford reminded me yesterday, when we were telling ''Lew'' stories, how Phil Waterman and I got even by telling everybody at the Ford tournament in Vail that Rachel had made a ''hole in one'' that day. Bob Barrett got you to pick up the whole bill in her honor at the party that night at the saloon in Vail. You never complained even when Rachel announced that she had now conquered the game and was going to retire from golf. President Ford said playing golf with you was always a treat. He said to say thanks again for all your support over the years to both his and Betty's tournaments, and for being such a good friend to both of them.

It wasn't just presidents who loved and admired you, but it was all the pros and caddies too. Whatever tournament you arrived at it was always the same, the caddies crying out ''Mr. Lew, Mr. Lew''. They all loved you and it wasn't because they were impressed with your swing, but because you were you. . . . Then there was the time we were playing a tournament and you missed three shots in a row in the sand. You threw your club down, took out your cell phone and called your favorite pro at Deepdale, Darrel Kestner, to find out what you were doing wrong. Yes, Lew, I could go on all day telling Lew Rudin stories.

You loved to brag about your kids and grandchildren. They were so important to you. You left them the highest crown of life—a good name.

You never let your failing eyesight interfere with golf or anything else. Helen Keller was once asked if there was anything worse than losing your eyesight, she said, ''yes, losing your vision.'' Louie, you never lost your vision.

Lew, I knew when you got to the first tee up in Heaven, Gray Morton was waiting for you. Just remember he's a lousy cart driver and don't give him any gimmes, he chokes on the short ones.

Until we tee it up again . . . I'll miss you.

EULOGY BY WILLIAM RUDIN—FUNERAL SERVICES FOR LEWIS RUDIN

Good Morning,

On behalf of Rachel, Jack, Susan, Beth, Cliff, Carlton, Kyle, Ophelia, Samantha, Michael, myself and the entire Rudin Family we thank you all for coming. My dad would be upset that we are holding his funeral on Sunday, as he knows many of you have sacrificed your golf games to be here; he did not like to inconvenience people. But I know everyone here is very happy to make that sacrifice and be a part of the celebration of his wonderful life.

Dad, deciding where to seat people today was tougher than seating an ABNY breakfast. If you were here today, you would be looking out at this incredible audience made up your family, friends, co-workers, and the many leaders of business, politics, labor, media, not-for-profit and sports world, and the working men and women, like Alex his caddy and Jose his doorman, that gave as you used to call New York ''Your Town'' its energy and vitality.

It always amazed me how my father referred to a city of 8 million people, a melting pot of every race, nationality,

creed and religion as just ''a town''. He beautifully and poetically synthesized the capital of the world into a small town where everyone knows each other and works together to make ''his town'' a better place.

If my father was standing here today he would ask Mayor Giuliani, Governor Pataki, and members of New York's Finest and Bravest to stand up and receive our thanks and gratitude for what an incredible job they have done to pull this city together during these trying times. He would tell us, just like he did with Governor Mario Cuomo the day after bombing, what strategies we should be using to rebuild Lower Manhattan and then give us a pep talk on how that if we work together we can accomplish anything.

This morning you will hear from the other speakers about how my father and his brother, Jack, carried on the tradition, established by their parents, May and Sam, of building major office and apartment buildings in New York City. And then using that position and power to help his town.

You will hear how he helped save New York City several times from the brink of bankruptcy,

How he formed ABNY in 1971.

How he saved the United States Tennis Association from moving out of New York and How he and Jack helped start one of the world's premier sporting events. The New York city Marathon in 1976.

You will hear of Dad's golf exploits and how at The Bing Crosby Pebble Beach Pro-Am he was on TV for a half an hour having his famous golf swing analyzed by Ken Venturi.

How he loved his many calm, relaxing, quiet games of golf at his favorite clubs, Deepdale and The Palm Beach Country Club with his buddies, especially Burt Roberts, Ira Harris, Gene Goldfarb, Jack Callahan, and Jimmy Peters. Guys, he loved taking your money. For a man ''almost'' blind he could sure hit those 40 foot putts.

You will hear about his wonderful medical team at New York Hospital and his excellent private nursing staff who cared for him while he was ill and helped prolonged his life.

And I am sure you will hear about many other aspects of a very successful, powerful but caring man.

To his friends he was Lew, Lewis, Luigi, or Mr. New York. But to Rachel, Ophelia, Samantha, Michael, Kyle, Carlton, Beth and myself, he was just Pops. A man who would stop whatever he was doing, even when talking to a Mayor, Governor, major tenant or banker and stop to take our call to us give directions because we were stuck in traffic on the LIE and wanted to know a short-cut around it. He was a frustrated commissioner of transportation. His door was always open and he was always available to offer sage advice whether it be a lease negotiation, refinancing, personal problem or a putt on the 7th hole of Deepdale. ''Four inches outside the cup on the right and do not hit it too hard or else you will knock it off the green''. Of course many times. I hit it off the green but the times I did sink the putt he would flash me one of those grins that a father has for a son he is very proud of. For Pops family came first and foremost. He loved and cherished his family and was very happy when we were all together.

Pops we will miss those impromptu visits to the apartment as you were heading between 3 cocktail parties and 2 charity, black-tie dinners you were going to that evening just to give your grandkids a kiss hello. Michael and I will miss our rounds of golf particularly with you and Burt. Well, maybe not with Burt. Even when tired from the chemo treatment, you were always there for your grandchildren, attending a performance by Samantha or going out to dinner just so you could be with all of us.

Rach, Mom, thank you for providing Pops with his only ever true home. He loved what you had created in Palm Beach, he truly relaxed down there. We will continue to cherish the memories of all the wonderful vacations and holidays we spent together. Thank you for sharing it with all of us.

Pops, know that we will take care of Rachel and the rest of yours and her family. Rach, or as he lovingly called you Dr. Gotsmacher, Pops was not the easiest patient but he knew you were always taking good care of him and trying to get him back on the golf course. Mom, we love you very much and we will never forget the joy and happiness you brought to Pops.

Fifi, that was Pops' nickname for my beautiful wife Ophelia. He loved you and knew you were always there for him for the last 25 years, as he was always there for you. He knew what an important part you played in my life, always giving me support and encouragement and giving me true happiness. Your love and dedication particularly during his illness and making him feel at peace with his decisions is truly remarkable. You helped him fight an incredible fight with will and determination, strength and guts that is a role model for us all. Fifi, as he would say looking up from behind his desk in the den at Palm Beach, with his glasses partially down on his nose, ''Would you mind coming over and read the paper to me?'' ''Sure Popsical'', she would respond, ''What section would you like me to start with?'' He loved you very much.

Beth, the other night as Dad's breaths were slowing, you hugged me and said I had big shoes to fill, I hugged you back and said and I know you will help me fill them. Pops relied on you and your wonderful sense of philanthropy, your special sensitivity for finding and getting involved in causes not necessarily popular but very important such as AIDS, homelessness, child advocacy and substance abuse. He was very proud of you and loved you very much. He was especially glad to get to know Cliff and see you happy.

Samantha, Michael, Kyle and Carlton, Pops was very proud of you. Each very special in your own unique way, but connected by the same instincts inherited from Pops—compassion, caring, giving back, and each are blessed with the rare ability to bring people together and make them feel important and special—just as Pops did.

You Kids, are his true legacy.

Thank you Uncle Jack for always being there for Dad and us. Your brother loved you very much. Dad cherished your relationship for it was a truly unique partnership. He knows that he has left behind an awesome responsibility and weight on your shoulders; but know that I speak for your kids, our cousins, and Beth, John, Dave, Sidney and myself and the rest of the Rudin Management team, we will all help you carry on the Rudin tradition. The two of you were true role models on how a family business should be run—we will make you proud.

Thank you all at Rudin Management Company and at ABNY for all your support, dedication and love. Lewis cared for all of you and wanted to know he appreciated everything you did for him and his family. Last week I told him what happened downtown and how brave and heroic our men and women performed under unbearable circumstances. He was very proud of each and every one of you. He loved you all. He also wanted me to especially thank his personal staff and express words of gratitude to each of you. Saundra, Lori, Chris, Tammy, Antoinette, Horace, Mary, Maggie, Krista, Doris and Isabel, he could not have gotten through his busy day and accomplished so much without all of you.

Several people have asked me what will happen to ABNY now that Lewis is not here, the answer is simple, with the wisdom and experience of my father's generation, the energy and drive of my generation, the enthusiasm and optimism of our children's generation and the love and power that fills this sanctuary, we commit to you, Pops, that the ABNY legacy will continue and we will fulfill your vision for a better New York. I asked everyone here and throughout this great city, to help us fulfill Pops' mission and help us rebuild and renew Pops' town.

One of the reasons I believe my dad fought so long was so that he could see his beloved synagogue re-open. Two weeks ago today he participated in the rededication. This synagogue and its leadership is a role model for downtown. Thank you Rabbi Rubinstein for being such a good friend and leader.

For a man with limited vision, Pops had true vision. He was always looking to the future, whether it was the 2nd Avenue subway, new baseball stadiums, or bringing the Olympics to NY in 2012; his vision stretched throughout his town. For a man who talked to Presidents, Governors, Mayors and world leaders and pinned Big Apples on all of them, he related to every person of his town, black or white, rich or poor the same, with dignity and respect. Pops saw no color, he loved everyone. Although he ate at The Four Seasons and ''21'' he preferred a Sabrett hot dog with kraut and mustard and a cream soda from the hot dog stand on 51st Street.

Dad was the scientific model for multi-tasking. He was not truly happy unless he was in his office simultaneously in a meeting, signing leases, barking out to Lori to get the Mayor on line 1; while screaming on line 2 to Burt Roberts to be quiet and ''So what if you were in the papers more than me today!''

He has gone in peace and left behind his ''town'' not just a little better but a great deal better than he found it—This is all he wanted people to remember him by.

Pops, I know right now you are already meeting with God to organize the Association for a Better Heaven, probably telling him to be brief because you have a tee-off time with your friend Gary Morton in an hour.

Moments after Pops made the transition to the next world the other morning, surrounded by his loving family, the phone started to ring. I looked around to everyone and said, ''It must be Pops. he borrowed God's cell phone to let us know he got to Heaven safely.''

We love and miss you Pops.

THE HISTORY OF NAFTA AND TRADE PROMOTION AUTHORITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Mr. Speaker, I was a little disappointed a moment ago when my colleague, the gentleman from Virginia (Mr. CANTOR), spoke on this floor in support of the Trade Promotion Authority.

We all, including viewers of these proceedings, Members of Congress in their offices, Members of Congress that stop by and watch these proceedings, and others that tune into C–SPAN, see often Members of Congress simply talking about issues. They tell their side for an hour or 30 minutes, and the other side tells the other side, sometimes by party, sometimes by issue.

It is too bad that we did not get a chance today, as I would have liked to, to engage in a discussion as my colleague from Virginia began on his side a discussion of NAFTA and what the North American Free Trade Agreement has meant to this country.

There is so much to talk about with the North American Free Trade Agreement. While that passed back in November of 1993, my first year in this institution, and took effect in January of 1994, a couple of months later, what has happened with the North American Free Trade Agreement is very, very significant in this body today. That is because on Thursday the issue my friend, the gentleman from Virginia, was just talking about, the Trade Promotion Authority, which used to be called Fast Track until Fast Track became so singularly unpopular a term, after this body had defeated Fast Track not once but twice, in fact, in the late nineties, nonetheless, President Bush is bringing back Fast Track in a new cloak, only a new name, not much different, called Trade Promotion Authority. Trade Promotion Authority mostly is simply about taking NAFTA and all of its pluses and minuses and extending NAFTA to the rest of Latin America. I think that most people in this country, if NAFTA came to a vote, would say, I do not think we really want to expand NAFTA to the rest of Latin America, the President's flowery words notwithstanding and the flowery words of my friend, the gentleman from Virginia (Mr. CANTOR), notwithstanding.

Mr. Speaker, the issue of NAFTA can be encapsulated in a story that I would like to tell. Back when Congress in the late nineties considered expanding NAFTA to the rest of Latin America, considered what was then called Fast Track, now granting Trade Promotion Authority to this President, I, at my own expense, flew to McAllen, Texas, rented a car with a couple of friends, and went to Reynosa, Mexico, to see what the face of the free trade future looked like; how was NAFTA working, since it had been 5 years or so; and how were people in Mexico doing under NAFTA.

I went to the home of two people who worked at General Electric, one of America's and one of the world's largest corporations. They were a husband and wife, and lived in a shack not much bigger than 20 feet by 20 feet. This shack had no running water, no electricity, a dirt floor. When it rained hard, this floor turned to mud.

Now, these were two people who worked at General Electric at 90 cents an hour, they each made, 3 miles from the United States of America. Behind their shack was a ditch about 3 feet wide. Across that ditch was a 2-by-4 people could walk across to get to shacks on sort of the next block, if you will.

This ditch, flowing through this ditch was some kind of effluent. It could have been human waste, it could have been industrial waste, and likely it was both. Children were playing in this ditch. The American Medical Association, the Nation's doctors, called the border along the United States-Mexican border a cesspool of infectious diseases. They claimed that this area is perhaps probably the worst place for infectious diseases in the western hemisphere.

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Now, when you visit the colonias where these Mexican workers, almost all of whom work for major American corporations, where in this country those workers are paid $15, $10, often $20 an hour working under generally safe working conditions protected by government regulation that keeps these workplaces safe, generally those companies dispose of their industrial waste into the air or into the water properly, so it does not pollute in the neighborhood very much. All of those companies in Mexico tend not to follow these rules. They tend not to install worker safety regulations and worker safety protections in the workplace. They tend not to dispose of their waste properly for the healthy well-being of their employees and the neighbors. Of course, the wages are one-tenth, one-fifteenth, one-twentieth as much, 3 miles from the United States.

As you walk through these neighborhoods, these colonias, you usually can tell where the worker works because their homes are constructed, the roofs and walls, the homes are constructed of packing materials that come from the companies where they work. They unload equipment. They unload supplies. They unload components from a supplier and they take those boxes home. They might take boxes from General Electric or General Motors, wherever these companies are, wherever these employees work, they might take those boxes home. They might be wood crates, whatever, and they construct their homes with these crates and boxes and packing material.

As you walk through the colonias in these neighborhoods where the husband and wife are both working 10 hours a day, 6 six days a week for big American corporations, making 90 cents an hour, they live in shacks with dirt floors, no electricity, with no running water, shacks made of packing materials coming from the company where they work.

This is the picture of the free trade. This is the picture of the future under NAFTA and a picture of the future under extension or expansion of NAFTA to Latin America through the Trade Promotion Authority proposal.

FOOD SAFETY

Mr. BROWN of Ohio, I would like to talk a little bit about food safety tonight, because one of the things I learned as Congress has passed NAFTA

in 1993, I think not a good reflection on this body, but nonetheless Congress passed NAFTA in 1993, what I found interesting about food safety is under NAFTA one of the things that has happened with food safety and with trade law is that pesticides that we have banned in this country, a chemical company might make something like DDT; it is still legal to make the pesticide in our country, it is simply illegal to apply those pesticides to fields in our country or to gardens or to lawns or anything.

Certain pesticides that are banned are banned for use in this country, but American companies still make pesticides and they export some of them to Mexico. So when we buy strawberries and raspberries from Mexico, in many cases those strawberries and raspberries would have had applied to them pesticides that are illegal in this country to use, but were made in this country and exported to those countries for their farmers to use.

Many of those farms are owned by large companies where there is not high regard for the workers' health, where there is not high regard, frankly, for the end product in terms of its safety for consumers' dining room, breakfast room tables.

So what happens, Mr. Speaker, is so often a pesticide will end up sold to Mexico, made by an American company, applied by dirt-poor, underpaid farmers, barely making a living, jeopardizing their health, because putting these pesticides on the land is every bit as dangerous, if not more so, because of the amounts they use, the volume they use, perhaps more dangerous than the ultimate consumption of those fruits and vegetables.

Mr. Speaker, after the pesticides are produced in the United States, sold to Mexico, applied on food, to strawberries and raspberries in Mexico, those fruits and vegetables are then sold back into the United States. And, frankly, it is pretty certain that pesticide residues are still on those vegetables or strawberries and raspberries and other fruits. So rest assured, in some cases as these fruit and vegetables come across the border, generally dismantled by the Gingrich years in this congressional body, our food safety and food inspection measures at the border are so weakened or so unsubstantial, if you will, that this creates some danger for American consumers.

In fact, it is three times more likely that fruits and vegetables in the United States, imported fruits and vegetables are contaminated, three times more likely contaminated than those grown in the United States.

Instead of our passing trade laws that say we do not allow these pesticides in our country, we will buy your fruits and vegetables but you are not going to allow those pesticides to be used either, we do not do that. We simply say come on in, bring them in.

Let me talk about food safety and what is happening. In 1993, 8 percent of fruits and vegetables coming into the United States were inspected at the border. Today that figure has dropped to one-tenth that amount. Seven-tenths of 1 percent of fruits and vegetables coming into the United States are inspected at the border. That means, if my math is right, that means for every 140 truckloads of broccoli, one truckload is inspected. For every 140 crates of broccoli, 1 crate is inspected. For every 140 bunches of broccoli, 1 bunch is inspected.

That does not bring a lot of confidence to the American public, the consuming public, the eating public, if you will, as we eat the fruits and vegetables coming from these countries.

When I went to the border, and I am joined by my friend, the gentlewoman from Ohio (Ms. KAPTUR) who is one of the premier experts in this Congress and in this country in agriculture. She is the ranking Democrat on the agriculture Committee on Appropriations. She knows food safety in and out.

Before I yield to her, I want to tell another story about that same visit to Mexico where I stood at the border and watched the inspection of broccoli. I mentioned broccoli earlier because it is so in my mind from watching this inspection.

The FDA inspector who was doing his job, doing his best, he in those days was inspecting 2 percent of vegetables coming in. Since then, because of budget cuts that this Congress continues to do on public health issues and public safety issues, and nothing is more important to public health and public safety than a clean food supply, he was inspecting 2 percent then, it is one-third that amount now, about .7 percent.

He took a crate of broccoli off a truck, put it down next to him, took broccoli in his hand, took a bunch in each hand and slammed it down on a steel grate and was looking for pests, for insects to fall out of that broccoli, presumably dead or alive insects. If there had been insects that were alive that fell out, he would have put the whole truckload into a machine that would have sprayed the broccoli to make sure any of the pests were dead. If the pests were already dead, I am not sure what he would have done.

The FDA has only 750 inspectors, spends $260 million to scrutinize 60,000 food plants, inspect 4½ million imported food items each year.

As I said, in 1993 when NAFTA was passed, 8 percent of fruits and vegetables were inspected. Today that number is down to .7 percent, seven-tenths of 1 percent of fruits and vegetables are inspected.

We do not have the equipment on the border to check for E. coli. We do not have the equipment on the border to check for microbial contaminants. We do not have the equipment on the border to check for pesticide residues. You cannot hold broccoli and you cannot hold strawberries at the border for 2 weeks until the lab tests come back. So basically our food inspections at the border simply do not work right.

Now, Mr. Speaker, today we had a news conference to discuss this, and I want to mention one more thing before I yield to my friend, the gentlewoman from Ohio (Ms. KAPTUR).

The executive director, Mohammed Akhter, a physician, is the executive director of the American Public Health Association. He said in no uncertain words that fast track Trade Promotion Authority will undoubtedly mean more fruits and vegetables into the United States and a smaller and smaller and smaller percentage of those fruits and vegetables inspected. There is no doubt, because we have passed NAFTA on the cheap. We did nothing for truck safety, nothing for food safety, nothing for drug interdiction when we passed NAFTA. As traffic and congested increased 4 times, 400 percent along the border, we did nothing to prepare. There is nothing to prepare in the Trade Promotion Authority that the President is asking for to prepare for food safety inspections. We still are not doing our job. Especially the director of the American Public Health Association, the highest-ranking public health official in the country is saying that passage of Trade Promotion Authority, in his words, will mean more unsafe food in the United States, more outbreaks of disease, more infectious disease in the American people.

Last year 5,000 Americans died from food-borne illnesses, not all of them from imports to be sure, but it is three times more likely imports cause disease than locally grown produce. Not that we do not need to do better in both; 5,000 people died of food-borne illnesses, 80,000 people went to the hospital from food-borne illnesses; 300,000 people were sick from food-borne illnesses.

That is something we should not be proud of. Those numbers are going up more every single year. Those numbers will keep going up. In the words of the executive director of American Public Health Association, those numbers will just sky rocket if we pass Trade Promotion Authority, simply because we are not prepared at the border to do what we need to do to preserve food safety for the American public.

Mr. Speaker, I yield to the gentlewoman from Toledo, Ohio (Ms. KAPTUR), who has been to Mexico, who has seen all of these food safety issues. She, I believe, will talk about some other things with Fast Track also. I yield to my friend from Lucas County, Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. BROWN), the very able Member from

the Lorain, Ohio region, for asking me to join him in this Special Order this evening. I do not want to consume an undue amount of his time, and want to say that we are a better country and world because of his involvement and leadership on this issue in the area of trade, jobs, the betterment of the working conditions of America's workers and workers around the world. It is my great pleasure to join him this evening.

I am reminded of the former Governor of Texas, Ann Richards, who used to always say, ''You can put lipstick on a pig and call it Monique, but it is still a pig.''

In thinking about what is called Trade Promotion Authority, I am reminded of the trade debates we have had here in the Congress where the administration always changes the name. We know it is Fast Track. They tried to do that to us before where they bring a trade measure before the Congress and we have no opportunity to amend it. Through the Committee on Rules, they take away the constitutional rights of this Congress to amend and to involve itself in trade-making. It is right in the Constitution. Pick up a copy of it and read it.

So Fast Track basically handcuffs the Congress of the United States and takes away our constitutional power to make the trade laws for this Nation, because it says any president can negotiate an agreement with 59 other countries and not have to negotiate with us. Just bring it up here and try to fast track it through.

So when that ran into trouble, and the gentleman might recall this, when we became involved with China, they could not call it Fast Track. They had something called Most Favored Nation. They could not use Most Favored Nation, so then they changed the name. They said we will call it Normal Trade Relations with China. Well, no relations with China are normal. We are not dealing with a country that even recognizes any democratic rights, no worker rights, no religious rights, corruption at every level, state-owned companies, prison labor. And they want to have normal trade relations. So they changed the name.

Now we are back to, we had the North American Free Trade Agreement, NAFTA; like a treaty, and we were not allowed to amend. It was either up or down inside here, and I will talk about that in a second. Now they are talking about this Fast Track agreement for all of Latin America, not just Mexico, but adding Brazil and Argentina and a lot of other countries; but they do not want to call it Fast Track. No, we cannot call it what it really is. No amendment by Congress to a trade agreement negotiated by the President. We are going to call it Trade Promotion Authority. That sounds like homogenized milk. Who can be against that?

Mr. BROWN of Ohio. Reclaiming my time, it is interesting that they have done that, because even though almost every newspaper editor, most of the large newspapers have supported all of these free trade agreements, because they are very conservative and very close to many corporations, and all the reasons newspaper editors do. And even with all of that and the President being for it and the business leaders being for this trade agreement, even with all of that, the American public clearly oppose NAFTA, clearly oppose Most Favored Nation status with China, clearly oppose what we do in the World Trade Organization, clearly oppose Fast Track.

Each one of these issues the public opposes. So as the public builds its understanding of these issues, they always, as my friend from Toledo points out, they always change the name. So Most Favored Nation status became PNTR. What is that? Fast Track Authority became Trade Promotion Authority. What is that? So they continue to try to confuse the public, and the public always catches up and understands it. You can bet 3 years from now when they are trying this again after we defeat it on Thursday, they will try it next year and the year after. They will come up with a new name because Trade Promotion Authority will not be a very acceptable name to the public.

Mr. Speaker, I yield to the gentlewoman from Ohio (Ms. KAPTUR).

□ 2130

Ms. KAPTUR. Mr. Speaker, that is correct and the reason that the public does not support any of these is because they have been hit directly. That means they have lost their jobs.

In this country, ask the Brachs Candy workers in Chicago where their jobs are moving, already to Argentina, because of the way in which sugar is produced in Argentina, and Brachs uses a lot of sugar. So they cannot have farmers producing sugar, and the gentleman from Ohio (Mr. BROWN) talked a lot about foreign policy in agriculture; but because they can have plantation style sugar production, where workers earn nothing, where there are no environmental standards, where one does not have to dispose of field waste in an environmentally responsible way, and then companies like Wal-Mart, the largest purchaser of Brachs Candy, can set the price it wants.

That is what is going on in the world. Ask the workers at Phillip's Electronics in Ottawa, Ohio, whose jobs are being moved to Mexico; ask the workers at Fruit of the Loom in Mississippi. One can go State by State, region by region; and one can see the outsourcing of manufacturing and of agricultural jobs in this country, and it is the reason that the census bureau and all the income statistics that have just come out have shown that the wages of ordinary Americans for the last 10 years have not risen. When one discounts for inflation, people have been running in place and falling behind and losing their benefits, as the workers at Enron just did as it went bankrupt this week and they lost their 401(k) plans and lost everything that they had worked for.

This trade regime that has been set in place, that disempowers this Congress to represent our constituents has produced an economic policy that is drumming down the middle class in this country and forcing people around the world to work for almost nothing.

I would be pleased to yield.

Mr. BROWN of Ohio. As my friend, the gentlewoman from Ohio (Ms. KAPTUR), says, the biggest reason that wages have been stagnant in this country, understand for the 10 or 20 percent on top, salaries have gone up, but for most of the public, in the last 10 years, at a time of supposed economic growth, wages have not risen; and one of the major reasons for that is that company after company after company simply threatens to go to Mexico or threatens to go to Haiti or threatens to go to Honduras or threatens to go to China; and workers then are much less likely to demand wage increases, and in many times, many cases will give due wage give-backs so the company will stay there.

York Manufacturing in O'Leary, Ohio, was faced with threat after threat after threat of moving production to Mexico. Their wages stagnated for several years. Even then finally the company closed, moved part of its production to another place in the United States and most of its production to Mexico. So those wages were stagnant for several years, then the factory was closed and the wages became zero.

Ms. KAPTUR. Mr. Speaker, I hope that every worker in America who has lost their job because of one of these trade agreements will write the gentleman from Ohio (Mr. BROWN) or myself, will tell us who they are because we are going to keep a list of who they are because there are now millions and millions of Americans who have been hurt by these misguided trade agreements.

I heard some of the prior speakers saying how great this would be for trade and it is going to create all these great exports and cheap imports, and the truth of the matter is that is not happening either way.

First of all, in terms of exports, take Argentina and beef. Argentina now exports more beef before this authority even voted on, and wait until after it is passed, than we export to them. We are already a net importer of beef from Argentina.

Mr. BROWN of Ohio. In China, during the PNTR, remember, the Most Favored Nation Status that we talked about, they changed it to Permanent Normal Trade Relations to confuse as

many people as possible, during that debate the administration promised, the supporters and the Republican leadership and others here promised, that American farmers would sell grain to China. They said China only had, if I recall, some 12 or 13 million metric tons of grain in their storage facilities in China; they would be importing grain.

What happened? Well, they actually had 50-some million metric tons of grain stored in China, and China since PNTR passed is now known to be a grain exporter. So every time we have a trade agreement, the agriculture community, family farmers like the Snyder family in Richland County where I used to work as a kid on a family farm, family farmers like that are promised that they are going to be able to export more grain, they are going to be able to export more fruits and vegetables all over the world because these trade agreements create all kinds of new markets.

The fact is, rarely, if ever, does American agriculture benefit. Some of the big American grain companies benefit, but almost never do family farmers benefit, whether they are corn farmers, whether they are tomato farmers, especially if they are tomato farmers, winter vegetable farmers, fruit and vegetable farmers in Florida where the price of tomatoes went up and Mexico has increased their tomato production exports to the United States and American farmers have gone out of business and Americans are paying more for tomatoes.

So we get it three ways: we lose jobs, prices often go up, and small farmers, even in Mexico, are put out of business, also.

Ms. KAPTUR. The gentleman raises an excellent point; and if there are farmers listening to us this evening, this Member of Congress' opinion is that the answer for increasing income to America's farmers does not lie in the export market. Rather, it lies in recapturing the market that we have lost here at home and moving our production to higher value-added products, including the production of new fuels.

If one looks at what is going on in Minnesota, with the corn growers in Minnesota, they have raised the price they are getting per bushel by the production of ethanol in southeastern, southwestern Minnesota by one dollar. In other words, they are at a low per bushel cost, about a $1.65, which is lower than we have in Ohio. They have actually added a dollar, not through exports, but through producing for the people in their own State; and we have to look toward new uses of agricultural product by our consumers here in this country; and we here at the Federal level, including our Department of Agriculture, our Department of Energy, have to help our farmer reposition in an international marketplace in which they have been forced to become the low-price producers, and they are not able to make ends meet.

They have got it backwards. We ought to be helping our farmers here at home invest here in order to recapture new markets in value-added markets here at home. And I wondered if I just might put some facts on the record because they are so staggering they often get lost in the debate, but they are important to talk about.

Let us talk about Mexico, and a lot of us were here and fought against NAFTA. It actually broke my heart because I knew how many people would be displaced here at home, and in Mexico; the wages had been cut in half. They had been cut in half. So one can ask who is making the money off a system where workers like Phillips workers in Ohio, thousands of them, lose their jobs and those jobs are moved to Mexico and the people down there, their wages have been cut in half. So who is making the money off this? That is the real invisible hand. That is the invisible hand that we need to identify.

If one looks at the U.S. trade balances with Mexico, prior to NAFTA's passage, the black bars represent trade balances, we had a trade surplus with Mexico. That means we sent them, sold them, more than they sold us. The minute NAFTA was signed, our trade balance began to turn into trade deficits. That means they are selling us more than we are selling them. That is a negative on the international trade ledger; and it is a very, very serious one.

I wanted to point out a couple of other points. It is not only a deficit. It is a growing huge deficit. Prior to NAFTA's passage in 1993, we had a $51.7 billion surplus with Mexico. That has now turned into a $24 billion annual record deficit. With Canada, which was also a party to NAFTA, we had before NAFTA a problem already. We had a $10 billion trade deficit with Canada. Guess what, since NAFTA passed we have a $50 billion trade deficit with Canada, the worst in the history of this continent.

So NAFTA has really had a reversal of fortune for our country and in one very important sector, and I just want to look at the automotive industry for a second. They said this would be just terrific for jobs in America; we would create all these jobs. What we are doing is parts are being sent down to Mexico from this country, things are being done to them, they are being stamped, they are being bent, they are being this and that. They are put in cars that are sent then from Mexico to the United States. So prior to NAFTA's passage, we already had a stream of production where production was being relocated from our country not to sell cars to Mexico's consumers, because they do not earn enough to buy them, but they back-doored the production into Mexico in order to pay the workers almost nothing and then send those cars up here.

In fact, the most popular car, the PT Cruiser, PT Cruiser costs about $10,000 to make. Not a single one of those PT Cruisers is made in the United States of America. Every single one of them is made in Mexico, and when one goes down to Mexico, how many Mexicans do we see driving PT Cruisers? We do not see any. Why? They cannot afford them. They are sent up here, and the amount of automotive trade has just tripled between Mexico and the United States. Those are jobs that used to be here. They are now being made in Mexico, and our trade deficit in automotive has just exploded.

What it is, it is the relocation of production. So that is NAFTA, that is Mexico, and Trade Promotion Authority. We are going to see the same with Brazil, the same with Argentina, any country simply because they do not have systems of governance, and their economic systems are not developed in a way that ordinary working people can benefit from this kind of investment.

Mr. BROWN of Ohio. Mr. Speaker, would the gentlewoman yield about autos for one second?

Ms. KAPTUR. I would be pleased to yield to the gentleman.

Mr. BROWN of Ohio. Mr. Speaker, I heard the gentlewoman say many years ago, before I made my first trip to Mexico to look at sort of what was happening in these industrial plants, that when one goes to Mexico and went to an auto plant where Mexican workers are making 90 cents an hour, roughly, that when one visited a Mexican auto plant it looked a lot like an American auto plant.

I remember the gentlewoman from Ohio (Ms. KAPTUR) said this years ago, that for the first time, that its technology was up to date; the plant sometimes was even more modern than American plants, they are newer; the workers were productive, they were working hard and the floors were clean. Everything looked just like an American auto plant except for one thing: the Mexican auto plant did not have a parking lot because the workers could not afford to buy the cars.

One can go all the way around the world to Malaysia and go to the Motorola plant, and the workers cannot afford to buy the cell phones. One can come back to the New World, to Haiti and go to a Disney plant and the workers cannot afford to buy the toys or one can go back to China into a Nike plant and the workers cannot afford to buy the shoes.

The tragedy of these trade agreements is that workers are creating wealth for large corporations, and they are not sharing in the wealth they create. They are paid barely enough to

live on. They will never be in the middle class, and as the gentlewoman from Ohio (Ms. KAPTUR) said, they will never be able to buy American products. That is why the arrow always goes one way.

We send industrial components to Mexico. As a friend of ours, Harley Shaken, an economist in California, pointed out, they are industrial tourists. These components go from the United States to Mexico, almost like a San Diego teenager going to Tijuana for the weekend. The components go to Mexico for a couple of days; they are industrial tourists. They get assembled into cars and they come back into the United States. Everybody except for the large company loses. American workers lose their jobs; Mexican workers are paid subsistence wages and can never get off the bottom.

Ms. KAPTUR. The gentleman raises an excellent point because those are not real exports. They are U-turn goods. The gentleman is right. They are industrial tourists. They do not really create real wealth. They are merely there to try to exploit cheap labor, and this is happening all over the world, and the American people know it intuitively because when they go shop, it does not matter what one buys, it is all made someplace else.

In fact, trying to find something made in America is now an exception, rather than the rule; and that is draining out of our economy in a very invisible way to the ordinary person's experience the money that should be there for health benefits, the money that should be there for retirement benefits, the money that should be available in local regions to support the construction of schools, all these tax abatements that are being handed out left and right in all the 50 States to try to attract some of this investment that is moving to other locales around the world. They are not paying their fair share of property taxes and of taxes for education and all of the sudden education is being Federalized simply because local regions do not have the money to pay for the schools.

There are lots of costs for what we are seeing; and one of the biggest costs is America's image abroad, and let me give one example. Recently, I had a most compelling set of visitors in my district from the nation of Bangladesh, one of the poorest nations in the world, with over a hundred million people; and these were women workers. They did not speak English, but they came with a translator, and what did they do? Every hour, each of them makes 320 hats, ball caps and T-shirts, for places like Ohio State, the University of Michigan, all of our Big 10 schools, all these football teams and all around our country. For each hat that these women make, they are paid one and a half cents.

When those hats land in the United States, according to U.S. customs forms, the total cost of the material, the labor and the transportation is $1.

□ 2145

The average cost of one of those caps at any one of our universities is over $17. So you ask yourself, who is making the money?

And what is going on with this kind of system is that the very big investors around the world, and they have always been there, it was true for women in the textile industry from the time of the Lancashire Mills in England, investment moves to an area where they can access cheap labor, and it is up to those in political life to hold them accountable for the communities in which they exist. They have no automatic right to be here. We allow them in our system to be here, and they had best respect the political system we have created because it is not continued by magic. It is continued because of the set of values and beliefs that we hold as a people.

With a nation like China with over $1.250 billion people, and we only have 270 million people in this country, when there is this kind of trade deficit, and that is what this chart represents, U.S. imports from China exceed our exports there by 6 times, by 6 times, the amount of trade deficit in any 1 year that we are amassing with China is over $50 billion annually. That is $50 billion that is escaping communities in this country, workers' paychecks, workers' benefit checks, the taxes that would go into supporting our educational system, and it is getting worse.

The trade agreement that was signed with China has not made our trade accounts improve. They have only gotten worse every single year. So whether it is Mexico, whether it is China, whether it is Bangladesh, whether it is Argentina, it does not matter. The system is the same system.

I hear President Bush talk a whole lot about evildoers. People can be evildoers, but also economic systems and political systems can be evildoers. They can do harm in a very, very real way. Those women from Bangladesh came to my community and told me that they had to work 7 days a week, these young girls, 18, 19, and 20 years old. They would work 12–15 hours a day, sometimes 20 hours a day, sometimes 48 hours straight because they had to meet their production quota or their company would lose its contract. They would literally curl up and sleep under their sewing machine for 2 or 3 hours, and then they would get up and sew again. None of them were beyond the age of 29, and one girl was fired because she got a gray hair and they said, she is getting old, get rid of her. They are treated like dirt.

This is not the image that I want our country to portray internationally. And to most Americans, these are hidden activities that they never get a chance to see. But I hope retailers, some of whom are listening tonight, please, develop some conscience. Your actions have consequence. There is a moral order here that we ought to uphold. And the economic system that you are a party to does not treat people with respect. It is not just commodities you are buying, you are buying a chain of production, and there are people at every juncture along the chain, and the invisible hand should not be invisible any more.

If I might, I wanted to share again a chart here that shows the long history of our country and what has been happening with these trade deficits year after year after year, lopping probably about 25 percent off of our economic prowess in any given year because of the extent of it, over $300 billion. And back in, oh, 1974, and then moving into the 1980s, we began to move into deficit cumulatively with all these countries, and it has gotten worse and worse and worse every single year.

Now, some people talk about the budget deficit, where the amount of tax revenue that we take in as a country is not enough to pay for all our bills, our defense expenditures, our Social Security, and all the other things we have to pay for. Well, there is another deficit, and that is the trade deficit. It is not talked about a whole lot, and people often confuse the two, but the trade deficit is another number that is terribly important. Because when we have this deficit, how do we finance it? When other countries and companies make money off this marketplace, where do they put those earnings? They have been buying the U.S. Government debt.

When I first came to Congress, 12 percent of our debt was owned by foreign interests. In other words, every year we would have to pay them interest on the loans that they would make to us. Today, that has gone up to 42 percent of our Federal debt is owned by foreign interests. And every year we have to pay those interests, over $300 billion a year now, to pay for their loans to us.

So for the younger generation, this is not a stable situation in which to leave the Republic. If anything goes wrong in the international marketplace, collapse in Japan, collapse in Germany, whatever might happen in terms of the economy, the question becomes: Where are other investors going to be putting their money? How secure is the United States? Politically, yes, we are very secure; but economically we have some pretty big gaping holes in our hull and we best take care of it.

I think that people like my colleague, the gentleman from Ohio (Mr. BROWN), and myself, those who will oppose us this week will say, well, you are not for trade. That is absolutely wrong. That is not even the issue. Those people who do not want to talk

about the real issue will say that against us. But, in fact, we represent the northern part of Ohio. There is no part of America that trades more and is more dependent on free enterprise and the free market than northern Ohio, because we are heavily automotive, we are heavily agricultural, we have major ports, seaports, we have 24-hour-a-day air service out of our communities. We are the major spine of industrial America and also the crossroads of the Midwest.

Seventy-four percent of the American population is within a day's drive from my district alone. We are centrally located in our country. We must trade. But we want to trade in a system that respects democratic rights and freedom and the right of ordinary people to better themselves by the work that they do.

Mr. BROWN of Ohio. I thank my friend from Toledo. What she said about trading with democracies is so very important.

Last year, during the debate on Most Favored Nation status with China, what was euphemistically relabeled PNTR, executives and CEOs who normally do not bother with workaday Members of Congress, they normally only go to the leaders in each party, the Speaker, the minority leader, whatever; but CEOs were roaming the halls of Congress and repeating the mantra, we want access to China's 1 billion consumers; we want to sell our products to China's 1 billion consumers. But what they really cared about was access to China's 1 billion workers, who could work and sew those Ohio State baseball caps and those T-shirts from the University of Toledo or from Oberlin College or wherever. They wanted access to those workers who would work, had no choice really, would work for a few cents an hour.

In the last 10 years, and the gentlewoman from Ohio (Ms. KAPTUR) mentioned buying products, trading with democracies, what has happened in the last 10 years is western investors, investors from France and England and Germany and the United States and Canada, they are not very interested anymore in investing in democratic developing countries, countries that are struggling but that are democratic and developing, still pretty poor but democratic; they are interested in trading and investing in developing authoritarian countries.

In other words, they are not all that interested in Taiwan anymore, because Taiwan, again on Saturday, had a free election, perhaps the third free election in Chinese history. So Taiwan is clearly a working democracy. It is successful. They have done all kinds of great things. One of the great success stories in the world in the last two decades. They are not so interested in investing in Taiwan, but they are much more interested in investing in Singapore because they have a totalitarian government there.

They are not much interested in investing in India, but they are very much interested in investing in China. Why? Because China's workforce is docile, it does not talk back, it is an authoritarian country with no democratic elections, with no ability to speak out, with no ability to change jobs, and with no ability to organize a trade union.

And that is really why the World Trade Organization, which once met in Seattle in 1999 and had all kinds of demonstrations and all kinds of people speaking out in opposition to these policies, that is why they went to a city called Doha, the capital of a country called Qatar. The trade ministers decided enough of this openness, enough of this freedom, enough of this people assembling and protesting and speaking out and having elections. They went to a country where they like to practice their business. They went to a country with no free elections; a country without the freedom of religion, unless you are publicly a Muslim, you are not allowed to worship any other religion; with no freedom of assembly; with no freedom of speech; with no free elections; with no freedoms at all that we are used to.

That is really what our trade policy has turned into. Our investors want to go to China where they have slave labor, where they have child labor, where there are no elections, where their workers are docile and do not talk back, rather than going to a free country where workers organize, where the environment might be protected, where worker rights are protected.

That is why many of these countries leave the United States to go to China. In this country, they pay a Social Security tax. That money is gone when they go to China. They pay into Medicare. That money is gone when these jobs go to China. They have to keep the environment clean in their businesses here. Do not have to do that in China. They have to pay living wages in this country. They do not have to do that in China. They have to have worker protections in the workplace. They do not have to do that in China.

Why are companies investing in China rather than staying in the United States? Why are they investing in China rather than India? Because India is a democracy, China is not. Why not in Taiwan? Because it is a democracy, Singapore is not. That is why it is so important that we in fact support trade.

My colleague and I both support trade, the gentlewoman from Ohio (Ms. KAPTUR) and myself, and so do all of us that are against Trade Promotion Authority. We promote trade, we support trade, we advocate trade, but we want to see trade with democratic countries where workers can share in the wealth they create. Not a place like China, where the workers at Nike cannot afford to buy shoes; not a place like Haiti where the workers at Disney cannot afford to buy the toys they make; not a place like Malaysia, where the workers for Motorola cannot afford to buy the cell phones they make.

We want workers to share in the wealth they create. They will then join the middle class and buy American products, and we will see both countries raise their living standards. That is what trade is all about.

Ms. KAPTUR. While the gentleman was talking about democracy and about trying to have a trade regime that uses the power of the democratic republics of the world and the free enterprise systems with the rule of law that have developed over two centuries, and then invite in the nations that would wish to advance, to have a system that would use the strength of the democratic republics and bring the others forward rather than pit them against one another, which is what is happening now, I could not help but think of one of the opponents who often comes to the floor and speaks against the gentleman from Ohio (Mr. BROWN) and myself, who usually says, well, we have got to trade because trade brings freedom. Trade brings freedom.

They use that phony argument. And I say, yes, we can have free trade among free people, but if we look at what is happening in the Middle East right now, there is not any set of nations that we have traded more with as a country than Saudi Arabia, Kuwait, and the United Arab Emirates. Why? Because we are totally and stupidly dependent on imported petroleum.

Now, if trade had brought freedom, they would have the most lively democracies in the world. But trillions and trillions of our oil dollars, every time we go to the gas pump and we buy petroleum, we buy gasoline, half of the money we spend goes offshore to places like Saudi Arabia and Nigeria. And now they are drilling in Sudan.

Mr. BROWN of Ohio. Right. Trade and economic activity did not bring freedom to Nazi Germany, to Fascist Italy. It has not brought freedom in any way, all the trade and supposed prosperity, to Communist China. And, as my colleague points out, it has not brought freedom to the Middle East, where we have all kinds of economic exchanges back and forth with Saudi Arabia.

Ms. KAPTUR. I have a story I want to put on the record. I know President Bush is very high in the polls, and I suppose one would be struck by lightning if they were to try to say anything that presents a different truth, but I have to present that truth because I personally experienced it.

As my colleague knows, a few months ago, before the terrorist attacks here in our country, President

Bush brought the President of Mexico to my district, the Ninth District of Ohio. And one of the reasons he was brought in there was because, I am sure, President Bush would like to learn more about why people in our region, just like people in every region of America, oppose these trade agreements. So he brought in President Fox, and I had a chance to ride out there on Air Force One with both Presidents and had a chance to talk to them.

I had asked the White House, and I presented President Bush with a letter on the airplane confirming what I had called about, saying, you know, Mr. President, you and I do not agree on NAFTA, and many, many, millions of people have been hurt by NAFTA.

□ 2200

But we have to figure out a way to improve it and to make it better. I would be willing to travel with you from any point in America where jobs have been lost to the places in Mexico where those jobs have been transplanted, and to talk to the workers in both locations with both Presidents and with Members of Congress and to try to figure out how do we work together as a continent in order to treat workers with the respect they deserve, whether in the industrial workplace or the agriculture hinterlands.

When we got on the airplane and he talked to us, I said, Mr. President, I proposed the trip and that we amend NAFTA to create an organization on an inter-continental basis for working life in the Americas. I said we could have a forum to deal with some of these poignant and deeply difficult and complex labor and environmental issues.

He said, no, he did not have a chance to read the letter I sent his staff a week before. I said, Mr. President, here is another copy of the letter. And I handed another copy to President Fox, and I had sent it to the Mexican embassy. President Bush said, It looks kind of thick. Is it single spaced? That is what he said to me.

I said it is single spaced, but the paper is folded. That may be why it looks a little thick. I said, I would appreciate if you would read it. He said it is single spaced, I have to use my glasses, and I cannot do it now.

I said, Mr. President, I appreciate an answer because I do not think anything that I am proposing is very radical. I did not get an answer from the White House. I can say September 11 happened and the world shifted, but I did receive a reply from President Fox.

Last night at the White House Christmas party, I occasioned to talk to President Bush, wishing him and his wife and all those who are involved in the war God's blessing.

I said, Mr. President, I do have to mention one item: you never did answer me on the letter from the airplane; remember we talked about it? He said oh, yes, and he kind of winked and smirked a little bit, and he said it must have gotten lost in the shuffle. It was not even said with seriousness, and it really hurt me because that is how workers are being treated. They are being lost in the shuffle, in this country, in Mexico, in places like Bangladesh. We are not fully conscious; we are not paying attention. We do not want to pay attention to the economic system that is hurting so many and not treating them with the human dignity that they deserve.

So much of world history is related to economics. I would say most wars, 74 percent, 75 percent of the reason we get in wars relates to economics. The history of this country, the Civil War, the pains of which and the scars of which we are still healing today, what did it have to do with? It had to do with whether or not we would extend the plantation system of the South to the West, and the plantation system with the slave labor with the kind of indentured servitude that characterized economic activity up until that point. It was about economics.

Even now to a great extent, in my opinion, the unrest and the hatred of so many in the Middle East toward us is due to the fact that because we have been trading with undemocratic systems that have not shared that vast wealth with the ordinary people of those countries, figured out some more representative system of government where all parts of the country could have roads and hospitals and children would have the ability to go to school, not just because you are the king's cousin or because you are Sunni as opposed to a Shiite, that there are divisions that do not get full representation, economics underpins so much of the trouble in the world today.

Mr. Speaker, I guess that is the reason we fight so hard because we know if we do not do it right in the first place, we are going to get a reaction down the road that will be like a boomerang.

Mr. BROWN of Ohio. Mr. Speaker, one of the joys of this job, serving as one of 435 Members of this body that we call the House of Representatives, is that we are at an interesting time in our history. We are clearly the wealthiest Nation on Earth, the most powerful militarily. We clearly are a country that has the most opportunity to do good in the world. One of the ways we do that is using our economic prowess in trade agreements; we could do this, to lift up standards around the world.

Mr. Speaker, that means when we trade with Mexico, for instance, and I think we should trade with Mexico and do a lot of trading with Mexico, rather than pulling our truck safety standards down to Mexico's level or pulling our food safety standards down to Mexico's level, or pulling our safe drinking water and clean air and anti-pollution standards down to Mexico's level, that we can instead pull their standards up. We have the ability to do that. We can write trade agreements that say when an American company invests in Mexico, they have to dispose of their waste in the same way there that the Environmental Protection Agency makes them do in this country.

These companies, the chemical companies, the steel companies, the automobile companies, they do not do the right things in the environment in the United States because they are being kind, they are doing the right things because it is Federal and State law, and local public health department regulation that they dispose of their wastes in a certain way that keeps the environment cleaner and healthier.

We could say to American companies in Mexico that they have to follow the same environmental standards. Pesticides that we banned here are not made and sold to other countries by American companies. We could say in China, sure, we will trade with you in China. We will be glad to buy and sell and trade with the People's Republic of China; but in return no more slave labor, no more child labor, no more selling nuclear technology to Pakistan, no more shooting missiles at Taiwan because they are holding a free election.

We are a wealthy enough country to say if you want access to us, you cannot behave certain ways. If China wants to sell their products into the United States, and clearly they do because the U.S. buys 40 percent of China's export, and they cannot say we will sell it somewhere else, because they are already trying to sell as much as they can everywhere else. If we say we are not going to buy your goods anymore if you keep using child labor and if you exploit 15- and 16- and 17-year-old girls and break their spirits and bodies and souls, and throw them out on the streets when they are 22 and make them work in the sex trade and give them no other choice, we could do that; and that is why it is so disappointing that we pass trade agreements that do exactly the opposite.

Instead of lifting up environmental standards around the world, lifting up wages around the world and lifting up food and drug safety and auto safety, instead of doing that we are bringing our own standards down. As wages stagnate in this country because of threats to move abroad, as jobs are lost, as we weaken public health laws in this country closer to what they are in other countries, we are giving away so much that we fought for in this country for 100 years.

I have a pin that I wear that is a depiction of a canary in a bird cage. One hundred years ago mine workers used to take a canary down into the mines and if the canary died, workers got out of the mines. In those days, a baby boy

born in the United States could live to be about 46; a girl could live to be about 48, the average life expectancy. Those workers had no protection from the government. Their only protection was the canary they took down in the mines.

But because of progressive government fighting against the gold mining companies, the coal companies, against other wealthy, rich advantaged interests in this country, we were able to pass minimum wages laws, worker safety laws, pure food laws, automobile safety laws, and all of the things that enabled people to live 30 years longer, enabled people to live better, longer lives through Medicare, through Social Security, all of the things that we in this body and in State legislatures and public groups and citizens' organizations have done to make the standard of living better in this country.

Mr. Speaker, I do not want to give that up as a Nation. That is why we need to defeat Trade Promotion Authority and write trade agreements that lift people up, not pull people down. That is the American way.

When U.S. Trade Representative Bob Zoellick, appointed by the President, when he says those of us like the gentlewoman from Ohio (Ms. KAPTUR) and the gentleman from Michigan (Mr. BONIOR) and the gentleman from Michigan (Mr. STUPAK), when we oppose these trade promotion authorities, we are not helping them in the war against terrorism, implying that people like myself and the gentlewoman from Ohio (Ms. KAPTUR) are soft on terrorism, implying that people like the gentleman from Ohio (Mr. BROWN) and the gentlewoman from Ohio (Ms. KAPTUR) are a little less patriotic because we are not supporting the administration on these agreements. The fact is the right side of American values is to lift people up around the world, not pull people down.

Mr. Speaker, it is important, as the gentlewoman from Ohio (Ms. KAPTUR) and I discussed, that Members vote against trade promotion authority.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for allowing me to join him this evening in our great efforts to defeat Trade Promotion Authority and move toward more democratic trade agreements for the world.

HISTORY OF THE CIVIL WAR, MILITARY TRIBUNALS AND DETENTION

The SPEAKER pro tempore (Mr. REHBERG). Under a previous order of the House, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, obviously the last hour of conversation was very one-sided, and clearly no opportunity to rebut it; so I intend to address a couple of comments by the gentlewoman from Ohio (Ms. KAPTUR) and the gentleman from Ohio (Mr. BROWN) because I think clearly they were either confused or there was some confusion in the research that they did for their comments.

Then I intend to move on from that and address my primary subject this evening, military tribunals, the question of treason against the individual who claims that he is an American, apparently is an American, and has been captured by the Northern Alliance and now turned over to American troops.

I would also like to talk about what is called detention of certain individuals in the country under this investigation and protection of the security of the Nation.

First of all, let me address a few comments made by the gentlewoman from Ohio (Ms. KAPTUR). First of all, it would be some benefit to her to study history of the Civil War. She would find, probably to her surprise, that the Civil War was not driven by economics; the Civil War was driven by the principle of slavery.

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

Mr. MCINNIS. Mr. Speaker, if the gentlewoman will not interrupt me.

Ms. KAPTUR. Mr. Speaker, the gentleman from Colorado (Mr. MCINNIS) mentioned my name.

Mr. MCINNIS. Mr. Speaker, I have the floor and I ask the courtesy that that rule be respected, and say to the gentlewoman from Ohio (Ms. KAPTUR), I would be happy to yield to the gentlewoman on another occasion. However, they had 1 hour of uninterrupted time. Perhaps at the end of my hour, I would be happy to have that conversation with the gentlewoman. Prior to that, I have no intention of yielding.

Mr. Speaker, let me go back to the Civil War. The comment made about the Civil War was driven by economics, come on, give me a break. It was not economics; it was slavery.

Let us go on to another comment. The Middle East problems are because of trade. Jimminy Christmas, somebody has to study some history here before those kinds of comments are made to our colleagues.

Clearly there are economic issues anywhere in the world; but the economic issues, contrary to what the gentlewoman from Ohio has said, they are not the driving problem in the Middle East. What I would suggest to the gentlewoman, with all due respect, is to take a look at the religious history of those countries, and I think she will find more of the fundamental problem in the Middle East has to do with the religious differences and the religious histories of those regions of the world than it does whether or not America allows their President to have authority on Fast Track.

I think it is a little unfair for any of us, and this includes the gentlewoman from Ohio, and I say this with due respect, nobody else is here to rebut it, and I think the gentlewoman before she carries on about a personal conversation between she and the President of the United States, especially a conversation that was not intended to be of kindness towards the President of the United States, that those conversations also allow for a response from the executive branch so we hear both sides of the story. It is not to question the accuracy of what the gentlewoman from Ohio said. Maybe she was accurate in her comments about what the President said, but I think the President or a representative of the executive branch ought to be included in this debate so we hear both sides of it.

□ 2215

Finally, let me stress, and then I will move on to the comments of the gentleman from Ohio (Mr. BROWN) and the comments of the gentlewoman from Ohio (Ms. KAPTUR), let me tell my colleagues, an isolationist view is not going to cut it. If we had adopted the type of view that is proposed by the gentlewoman, how would we ever build a coalition, for example, to help us in our war against terrorism? Trade has to be fair trade. There is no question about it. I do not know one of my colleagues, I do not know a Democrat, I do not know a Republican, I do not know either one of them, that proposes that the United States enter into an agreement that puts the United States at a disadvantage. I know none of my colleagues that want the United States at a disadvantage in a trade agreement. Maybe I am wrong, and I stand corrected. By the way, I will yield time to any one of my colleagues that wants to come up and say they are willing to agree to an agreement that puts the United States at a disadvantage. None of us agree to that. Of course not. That is pretty fundamental. The only reason people are supporting trade is because they think in the long run it benefits the United States of America. It is not because of, as some have suggested, corporate greed for an effort to revolutionize the Middle East or some of these other things that have been mentioned, I think somewhat recklessly. It is not that.

Mr. Speaker, all of us in our own heart of hearts have differing views on this floor, but I can tell my colleagues that the view of just saying that look, the only time we are ever going to agree with trade with other countries or to trade agreements with other countries is the idealistic view that everything the United States wants is everything the United States gets or we are going to take our ball and go home. I think an agreement ought to benefit the United States of America, but I do not think we are ever going to reach many agreements, including with many constituents who I think are

benefited in the State of Ohio, I do not think we are going to reach many agreements if it has to be 100 percent for the United States and zero for the other side.

Take a look at our agreements with Canada. They are critical about the free trade agreements we have. Look at the Canadian trade. Sure, we have disagreements with them on beef, we have disagreements with them on some of the fisheries and so on. But take a look at all of the products that go back and forth across those borders. That border is probably the most traded border in the world. It has been a pretty darn good relationship, and the United States has benefited from it over the years.

Now let me comment about the comments of the gentleman from Ohio (Mr. BROWN) which I think were most unfortunate. The gentleman made a comment, and I am quoting to the best of my ability here: We should not pull our standards down to Mexico, our environmental standards, our labor standards, et cetera. Remember what was just said. We should not in these trade agreements pull our standards down to Mexico. I challenge the gentleman on that. I challenge that gentleman to show me one trade agreement, one trade agreement that requires the United States to reduce its environmental protections within the boundaries of the United States of America. I challenge the gentleman from Ohio, contrary to what he has said, but I am asking him to show that he is correct. I am asking him to buttress his argument with facts, show me where the air quality of the United States is required to be reduced or made more dangerous because of some kind of trade agreement where we agree with some other country that our air standards, our water standards, our sewer standards, our hazardous waste standards, should be lowered because the other country wants to trade with us. That, in my opinion, is flat wrong. The facts do not support it. Yet the statement is made.

If I were not here, this statement would have gone unrebutted. The statement is freely made on this House floor to all of my colleagues that when the United States, when they asked the United States to give the President fast track authority, what they are doing is asking the United States to lower its environmental standards for the United States. That is not correct. That is inaccurate. I would hope that the gentleman tomorrow makes a corrective statement.

Now, I give the gentleman credit. The gentleman is a very bright man, very capable, obviously. So perhaps the gentleman misspoke, and I would hope that tomorrow he has the opportunity with the RECORD to correct that kind of statement because, frankly, it is now a part of the RECORD, and I think we have to be very careful about those statements that continue as a part of the RECORD and may later on be introduced in some type of proceeding.

My comments were not intended this evening to center on a rebuttal of the previous 1 hour. Let me make it clear to my colleagues out here, my purpose in rebuttal was simply that no one else was responding to these charges and, under the rules, the previous speakers did not violate any rules, they spoke in the time that was allotted to them. They were allotted an hour and they gave their side. Well, I did not intend to speak on their specific subject. I do feel that sometimes it is a little unfortunate up here that one side speaks and the other side is not heard, so that is exactly why I spent the first 10 minutes of my comments this evening at least giving somewhat of a perspective of the other side, so we can have a little bit more of an open debate based on facts versus emotional charges of which, in my opinion, the previous hour was full of.

Let me move on. We have seen in the news in the last couple of days something that I guess we should have expected would happen but, nonetheless, we were all taken back a little bit by it. None of us really envisioned that an American, an American young man would go over to Afghanistan and join the Taliban. None of us suspected that a young man would take on the cause of atrocities against the people that a government represents. Take a look at the abuse of the women, the abuse of the people of that society. Well, it happened. A young man, 20 years old, I guess his name is Richard Walker, Mr. Walker. He has changed his name legally. I do not know what the new name is, but at one point he was known as Mr. Walker, 20 years old.

Let me give some facts, the facts as they have been presented to us, we will have to determine, these are subject to change, but as of right now this is apparently what happened. The young man dropped out of school, decided to convert to Islam and, at some point in his conversion to Islam, decided to take or adhere to a very radical interpretation of Islam, which most of the people of Islam that I know of say is not a part of Islam, that this radical approach by the Taliban and by bin Laden is an incorrect interpretation of the Koran. But this gentleman, this 20-year-old man, decided to take the study and decided to affiliate with the radical aspect or the radical interpretation, especially when it came to Jihad. So he took up arms apparently with the al Qaeda in support of bin Laden, fighting, fighting his brothers and sisters in the United States of America. In other words, the facts show that in an earlier e-mail to his father; now, I just heard ''father,'' I would assume to his parents, let us just say to his parents at this point, e-mailed arguments in support of the right to blow up the USS *Cole*. Remember, that is the ship, I say to my colleagues, that a few months ago a boat full of explosives blew up the side, I think it killed 18 sailors. Also, at the time of his detention when he was captured in Afghanistan a few days ago, his comments were such that he supported the fighting action and the acts of terrorism taken against the United States on September 11. On top of this, this American citizen was also found with an AK–47.

So those are facts. Now, each of those facts on their own, well, with the exception of maybe the AK–47, but the fact that an American citizen agreed that the USS *Cole* should have been bombed, that in itself is not a charge. I mean we do have freedom of speech in our country, although certainly that is a very, very small, small minority of opinion from this country. Certainly he is entitled as an American to make those kinds of statements. A person saying that they support actions, the terrorism actions against this country on September 11, those statements made by an American citizen, while clearly wrong, it is a right of freedom of speech to make them.

But it is the accumulation of these that begin to outline exactly what I think this individual should be charged with. When we take those comments and we add them with the fact that this young man was captured in a battle when the opposing troops who fired upon American soldiers with the intent of killing American soldiers, who fired upon American aircraft and allied aircraft with the intent of bringing down those aircraft, who was involved with an organization that we know has savagely killed people in that country and, of course, was also the organization responsible for the attacks on September 11, when we combine it with that and the fact that he was arrested with an AK–47, we begin to say, wait a minute; this is an American who has turned as a trader against his country, he has betrayed his country, he has left America, maybe not formally by denouncing his citizenship, but the fact is, there may be an automatic denouncement of one's citizenship if, in fact, one takes up arms with the enemy and fights against the United States of America and attempts to kill citizens of the United States of America in an action, in a war against the United States.

That is a question that I am not really prepared to answer tonight, but I was interested in what would we charge this young man with, or should we charge him with anything? We have heard some argument come out in the last couple of days that oh, the poor little kid, the poor young boy, he is confused. We ought to do what some of the Afghans are allowed to do. The Taliban that are Afghans of nationality, some of them have been allowed

to surrender their arms and go home. There is some argument that this young man should be allowed to drop his arms and come back to the United States and go home.

That is a hard one for me to swallow. I do not think we have that case at all. I think what we have is a clear-cut case of treason. I say this carefully. I have been spending the last several hours in my office doing a lot of research. I listened to, frankly, Jonathan Turley, an expert in constitutional law. I should let my colleagues know I was a lawyer, I am legally educated, I am not a constitutional lawyer, do not pretend to be; but Mr. Turley is, and I listened to his arguments this evening on the Bill O'Riley Show, and both of those individuals spoke with some eloquence on this issue.

I want to look at the Constitution itself. Treason is such a serious crime. In our Constitution, we do not describe within the four corners of our Constitution homicide, we do not talk about burglaries, we do not talk about speeding or any of these other acts. There are a couple of acts that we talk about, but the first crime of this Nation, and probably the most egregious crime against this Nation is addressed in the Constitution, and I have it right here in front of me. That is the crime of treason. So I am asking my colleagues tonight, because we might, and I hope we do not, but we might discover there are some other Americans who have betrayed this Nation who have committed treason, in my opinion, against this country, and we really ought to assess, should we just turn our cheek in the other direction simply because the gentleman had an American citizenship card? Or should we look at how horrible the act of treason is against this country, so significant that the drafters of our Constitution included it within the Constitution, the definition and the description of treason against this country.

Let me refer my colleagues here to Article III under the Judicial Department, section 3, Treason against the United States. ''Treason against the United States shall consist only in levying war against them,'' them refers to the United States, ''or in adhering to their enemies.'' In other words, they are going to join the enemies, giving them aid and comfort.

□ 2230

Giving them aid and comfort: ''No person,'' and this is interesting in the crime of treason, ''no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or a confession in open court.''

There are a number of issues presented by this paragraph. Let us go section by section. Let us go in reverse order.

First of all, a confession in open court. Where will this case be tried? Is this the type of case we would try in a military tribunal? I think there is wide agreement this would not be tried in a military tribunal. He is an American citizen. The military tribunals were not intended for American citizens. So because of the fact that he is an American citizen, it probably will be tried in the Federal courts, not a military tribunal nor in the military courts.

Two witnesses to an overt act. Why is it important? Our forefathers saw treason as such a horrible crime against the Nation, as a crime of such significance against this Nation, that they said we could not build it on circumstantial evidence alone, we actually had to have two witnesses to the act of treason.

We do not want to convict someone of treason, was the thought of the drafters of the Constitution, unless we know and have witness to the treasonal acts carried out by these individuals. So that is stated very clearly.

Now, let us jump, here. Giving them aid and comfort. There is no question that the facts as we know them so far are that this individual gave aid and comfort to the Taliban. He considered himself a member of the Taliban. He probably had dual citizenship, and there is actually some point about dual citizenship.

This is a further interpretation of treason:

''An American citizen owes allegiance to the United States of America,'' wherever they may reside. So in our interpretation, under our Constitution, it is clearly the intent of the Constitution that an American citizen owes allegiance to the United States, owes allegiance to our Nation, wherever they may reside. It does not matter whether one lives in Japan, whether one lives in Afghanistan, whether one lives in Europe, that as a citizen of the United States of America, one owes allegiance to the United States of America. Dual nationality does not alter that situation.

So some might say, wait a minute, he was a citizen of the Taliban government and he was a citizen of the United States of America, so he had a dual citizenship. He has a conflict. He had an obligation to carry out the wishes of bin Laden and the Taliban government and the al Qaeda.

But we have already addressed that situation. This is not a new factual situation. It is very clear: wait a minute, it does not matter what other countries one has a citizenship to, but if one is a citizen of the United States of America one must have allegiance to the United States of America.

That standard of allegiance is not in any fashion diluted by the fact that one also has citizenship of another country. So keep that in mind, because I am sure as the defense attorneys start to put this together, that will be an argument as brought up initially. It will be quickly squashed by the courts, because it is clear under our law that one's allegiance to the United States of America is not diluted, that the standard of allegiance is not diluted because one has dual citizenship.

Now, we are already beginning to see the old defense tricks starting to bubble up in some of these interviews that I have seen just in the last 24 hours. I do not practice law anymore under the ethics of the House, but when I practiced law, I was able to observe a lot of criminal defense work. I was not a criminal defense attorney. In fact, I need to be fair and give a little disclosure: I used to be a police officer. I served in a squad car on the street before I went on to law school.

I was not a prosecuting attorney, either; but I did like to observe, out of interest, a defense attorney work. There is kind of a basic rule, a fundamental rule if one is going to defend somebody.

Number one, if they are innocent, that is the best defense one can get. If one's client is innocent, you could not ask for a better defense, because the facts will play it out. It is a strong weapon to go into the courtroom with, that is, that the client is innocent.

But a lot of times one does not get that benefit. A lot of times the client is not innocent. Then what one tries to do is to divert from the lack of innocence of the client and divert attention to the people who are accusing the client.

For example, they might allege sloppy police work or that the witness was having an affair or is a known liar or has some incentive to turn witness against the client; do anything you can to divert from your client's lack of innocence to some kind of vendetta or sloppy work, and therefore your client has been unjustly charged.

If those two steps do not work, then go to the traditional, and probably as long as this country has been around, probably as long as defense law has been around, but certainly much more prevalent in this country in the last 10 or 15 years, go to that old standard, ''My client was a victim.'' That is exactly what we are beginning to see here in the last 24 hours with this young man who I allege committed treason against the United States of America.

By the way, I have sympathy, but that is about the extent of it, for the parents of this child. I am a parent, about the same age as the father. I would be horrified if one of my children was doing the same thing. But the fact is that it does not forgive it.

What we are beginning to see is that this young man was a victim; that somehow, as the father said yesterday, he was brainwashed; or he was a victim of the Taliban; or they put pressure on him; or, you know, he was such a young man.

Let me tell the Members, the people he was shooting at were young men and

women, too; young men and women who were not brainwashed, so to speak; young men and women who obeyed the allegiance to the Constitution of their Nation; young men and women out there who this young man was trying to aid and comfort the enemy of, and joined the enemy in attempting to wipe out the United States.

Those thousands and thousands of citizens killed on September 11 were innocent. And by the way, there was the most fundamental violation of wartime moral ethics, and that is, one does not attack innocent citizens; one attacks a military target under a situation like this.

But what we are beginning to see is some kind of sympathy buildup for this young man, because he was young and, oh, my gosh, the parents are horrified. I understand the parents, by the way; I feel for them. But that is all the further it can go. Our Nation cannot allow, cannot allow us to turn our cheek on the Constitution, on an act like treason; an act, as I said earlier in my comments, that was taken so seriously it was put in the Constitution.

It is right here. It was put in the four corners of that Constitution to tell us that treason is probably not only the first crime recognized by this Nation, but one of the most serious crimes recognized by this Nation.

So I am going to look with interest to see exactly how this is handled. And obviously, from my statements, Mr. Speaker, this evening, Members know that my thoughts are that this gentleman should be tried in the Federal courts for treason against the United States of America and that he should be prosecuted to the fullest extent of the law.

Let us move on. We have had a busy evening so far. I want to talk about another issue that is very important, that is, military tribunals.

There has been a lot of talk. The talk radios are full of it, the newspapers, lots of editorializing on both sides of the issue. So I wanted to lay out some of the facts.

I have spent a lot of time. I have been on several shows talking about military tribunals. I think I am somewhat knowledgeable on the subject; I do not claim to be an expert in much of anything. But the fact is, I do want to share my views on these military tribunals. I think there are some legitimate, good reasons to support military tribunals.

I know some of my colleagues are dead set against this kind of thing and that somehow they have bought the ticket that this is a violation of civil liberties, that this is unconstitutional, et cetera. I will address those points. All I am asking is that for a few minutes Members give me consideration of presenting the other side of the issue, the side that supports the need for military tribunals.

First of all, Members should remember that the actual rules of the military tribunal have not been laid out specifically; but I think we can feel very confident, and I think they will be required by the standards set for military tribunals throughout the history of this country, that the defendant obviously will have the right to counsel; the defendant obviously will have the right to testify; the defendant will have a full and a fair trial; the defendant can be assured that they will not be prejudiced against because of race, gender, or status; that they can freely exercise their religion while in captivity; that they will be given food and shelter and the other things that are provided for people, citizens that are alleged of a crime.

So do not let people tell us that for some reason they are not going to get legal counsel. I will talk about the secrecy issue a little later on, but the secrecy is not going to apply to the extent that it denies the defendants in these cases a full and a fair trial. If it did, they would be unconstitutional.

Now, the constitutionality of military tribunals has twice been addressed by the United States Supreme Court. Twice the United States Supreme Court has upheld the constitutionality of military tribunals. So as we hear people say, well, it is unconstitutional, I think we need to say, wait a minute, be a little more specific. If the military tribunals follow the same standards or the same course of conduct as previous military tribunals have, they have been found constitutional. So on what basis can people say they are unconstitutional?

The fact is, they are constitutional. There is a lot of history to military tribunals. They did not just start with President Bush. Remember, President Bush's priority is not to get the defendants, not to create some type of new Constitution in this country, not to usurp the current Constitution. President Bush's primary drive here is to protect the security of U.S. citizens.

When we have to decide, okay, which way do we lean, in favor of protection, home security, homeland security for the citizens of the United States, or should we sacrifice homeland security for the citizens of the United States to go out and quell the concerns of a few civil libertarians, who, by the way, do not have the law on their side? The law is not on the side of those who are saying it is unconstitutional; the law is on the other side, saying it is constitutional.

The President I think very accurately and very correctly has made his point clear. His number one priority is the security of the United States of America. The people of the United States of America come first. The security of those people is an inherent obligation not only of the President of the United States as Commander in Chief, but the security of this Nation and the security of the people of this Nation is an inherent obligation of everyone sitting in the United States Congress or the United States Senate or in any public office, or working for the government. Their number one priority is the citizens of the United States and the protection of the citizens of the United States.

Let me give just a little history. Many people are surprised by the history of these tribunals. This history started in the Revolutionary War. Military tribunals were held at the very beginning of this country in the Revolutionary War. There were spies that were caught behind U.S. lines during the Revolutionary War, military tribunals in 1776. President Lincoln's assassination, 1865, a military tribunal; military tribunals right there under the assassination under President Lincoln, or because of President Lincoln's assassination.

World War II, Japanese officers who failed to prevent their troops from committing atrocities during World War II, those Japanese officers were subject to a military tribunal. That tribunal was taken to the United States Supreme Court, and it was found constitutional.

Nazi saboteurs who landed on the coast of the United States in 1942 with the intent to destroy industrial facilities. Those military tribunals also had as part of the punishment death penalties which were carried out against these saboteurs. The United States Supreme Court also found that military tribunal was constitutional.

There is history in this country. This is not a precedent-setting event. Military tribunals are a necessity.

Now let us talk about why are they necessary. What are some of the reasons that we have to have them? I think today, I have to tell the Members, I have to give credit to the editorial today in the Wall Street Journal. In one editorial, I think the Wall Street Journal set out probably as clear a picture as I have seen in this debate as to the justification for the military tribunals.

I am not going to read the editorial to Members, but I will talk about and discuss certain elements of that editorial.

They talk about, of course, the recent cases that have pertained to acts of terrorism: the first attack on the World Trade Center, the bombings of the U.S. embassies in Africa. The Wall Street Journal talks about the good news about these trials; and by the way, they were held in Federal courts. The good news about these trials was they managed to get convictions. The bad news was that they were protracted, long trials, expensive trials, and very dangerous trials to the participants, meaning the jurors, the judges, the court reporters.

Everyone that had everything to do with the government side of the business was under a threat of danger. In fact, it says, some of those judges involved in those cases still have security measures taken on their behalf to protect them as a result of holding those trials.

Now, think for a moment, and this is not in the Wall Street Journal editorial, but think for a moment on these military tribunals. Let us just take out of the air, let us say we capture some al Qaeda members. Say we capture 100 of them. That is not unreasonable. There are thousands of them.

Let us say 100 of them are captured and brought to the United States. Where are Members going to find 100 additional Federal judges, 100 Federal courthouses, that can be cordoned off, blocked off, checked every day for anthrax, checked for bombs? Where are we going to find a courthouse where we can get a jury that is willing to sit, a jury deciding on al Qaeda, when we know we do not have every one in our custody; when they are constantly reminded in this trial of what happened in New York City on the acts of terrorism?

Where are we going to find, without hampering and deadlocking the rest of the Federal court system, where are we going to get all of these judges to decide on this? Then what do you do, provide those judges with lifetime round-the-clock security for the rest of their lives?

□ 2245

That is why an option of a military tribunal which is constitutional, which allows the defendant a fair and full trial, which allows the defendant legal counsel, which allows the defendant the same rights of food and shelter and a nondiscrimination allowed to any other prisoner in the United States, that is one of the reasons these military tribunals make sense.

Let us go on, because the issue you have heard a lot of, ''secret,'' and, boy, do they play up on the word ''secret.'' Oh, my gosh. Secret. You cannot have a secret hearing. Well, wait a minute. Sometimes it is necessary to have a secret hearing because there are a lot of people that would like to find out exactly what we know about their organizations, their terrorist organizations.

For example, they say in here in the Wall Street Journal, they talk about that the World Trade Center trial, remember that trial a few months ago, in fact, the defendants were sentenced I think the day or 2 days after the September 11 bombing or act of terror. They talk about what was revealed in the first trial which was held in open court, not in a secret hearing.

This testimony that was open to the public including the al Qaeda network, the testimony in the first World Trade Center trial included lengthy testimony about the structure and the stability of the twin towers.

So, in other words, these twin towers, the World Trade Centers, the stability and the structural makeup of those towers was discussed in open court in the first World Trade Center, so that the people that were interested in taking down the towers could figure out why a bomb in the basement did not bring it down, but what would in fact be able to bring it down based on the structure weaknesses and the stability. That was in open court.

Do you think that is something we ought to be discussing in an open court? In other words, daring them to try it again and providing them, as the Wall Street Journal says, it is almost like giving out your troop movement. You are engaged in a war. We do not want to hold it secret from the enemy where our troops are going to be, so we better disclose our troop movements before we go into it. That is exactly what we are concerned about. The confidential information. How we found out about these al Qaeda. How we arrested them. What are our resources? Who are our sources of information? What kind of satellite intervention, what kind of interception did we use?

All of those secrets could be forced to be revealed in an open court setting. So what we have proposed is a military tribunal. And while a tribunal would allow facts like that to be held in secret, it would not deny the defendant a fair and full trial. It would fall within the bounds of constitutionality, and we can bet that any conviction taken out there will certainly go to the United States Supreme Court on the question of constitutionality. And I can assure you that the prosecutors, the United States of America, the people of the United States of America, do not want a trial that is going to be found unconstitutional. They do want to stay within the bounds of the Constitution. But they also want the priority, while staying within those bounds, that the priority should be homeland security, that we need to install just a little common sense.

Do not buy into some of the defense bar on this thing. Let me proceed.

In the embassy bombing, remember our embassies that got bombed? Government Exhibit 1677–T was al Qaeda terror manual. By entering the manual into evidence, the United States was telling al Qaeda that it knew its operating procedures and inviting it to change course. That was bad enough during peacetime, but in the middle of the war against terrorism it is akin to disclosing troop movements.

Speedy justice. Talk about the speed of these trials. Can you have a trial that is held on a faster basis without it being declared unconstitutional? Yes, you have to take certain precautions. You have to make sure the defendant is assured the right of counsel. You have to make sure the trial is held so it gives a full and fair trial to the defendant. But once you meet those standards of the Constitution, there is nothing in the Constitution that requires these trials be prolonged month after month after month, and that is exactly what happened. With the experiment we had in trying the first bombing of the World Trade Center, that is exactly what happened in that trial and the subsequent bombings of the embassies. Let us talk about it.

Speedy justice is also not a hallmark of civilian courts. The first World Trade Center trial took 6 months, in 1993 to 1994. Six months of locking off that courthouse. Six months of trying to keep secret who the jurors were, who the judges were, who the court clerks were, who the security guards were. As I said before, the security for the judges especially continues to this date on many of these cases.

A second trial lasted 4 months in 1997, a second trial dealing with the World Trade Center. A third trial, the blind sheik, took 8 months in 1995, 8 months of daily trial in the Federal Court Center. And the embassy bombing trial last spring lasted 3 months. That is the one where the sentencing took place September 12 in a Federal courthouse a few blocks north of the World Trade Centers.

Now, the Wall Street Journal says, it brings it to the fact that all these trials were held under heavy security and great risk to the participants. Federal courthouses are heavily trafficked public buildings in dense urban areas, and thus difficult to protect. Effective security requires more than installing metal detectors or closing off adjacent streets.

A military base is the safest venue for terrorist trials, but even that security is not a simple matter. It took a year to prepare a camp in the Netherlands for a trial of those accused of bringing down Pan Am Flight 103.

So the Wall Street Journal goes on further and says, look, from a practical viewpoint it does not make sense to hold these trials or tribunals or have trials in Federal courts in the middle of a populated center. It makes sense for the protection of the population around that courthouse, for the protection of the people working in that courthouse, it makes sense to have these trials, considering the backgrounds of these individuals and the allegations against them, to have these trials on a military base.

Now the military base does not prevent legal counsel from representing their client, does not prevent them from going on the base. The defendant will be able to have military counsel. But it does protect society. Again, some people are confused. Some people are beginning to adopt the politically correct thinking of whatever the liberal defense bar, in some cases, not all

members of the defense bar, whatever they want we better satisfy them. Even though we know it is constitutional, even though we know the jeopardy that we are placing other American citizens in, we better have it down at the Federal courthouse. You know why they will push hard on that, some defense attorneys, especially the defense attorneys that will represent the members of the al Qaeda, because they know under pressure the United States will probably fold and make a plea bargain for their clients.

The more you can force the government to disclose military secrets like satellites, who the names of their spies are, the more you can force the United States to hold a trial in a publicly populated area, the more pressure you are putting on the government to do a plea bargain. That is exactly why you will see these points pushed with such vengeance by the defending attorneys.

Same thing with the juror safety. The usual rules in civilian terrorist trials is anonymity for the jurors. But it is hard to believe that the jurors are going to consider that adequate protection after September 11. Judges are even more at risk.

Two Federal judges, as I mentioned earlier, two Federal judges in New York remain under tight security to this day, long after the end of those terror trials.

The larger point here, and I think this is very, very important for our discussion this evening, the larger point here is that military tribunals are not some ''Big Brother'' invasion past the normal rules of justice. In other words, what is being said, this is not an invasion of the rules of the Constitution, this is not a violation of the civil liberties of American citizens. In fact, it protects the civil liberties of American citizens. In fact, it is about the home security of the United States of America, about the security for every man, woman and child within this country that are American citizens, or even visitors who are not American citizens but residing in this country.

This is not an invasion of rights. This is not an effort by the President of the United States to somehow abscond with the Constitution of the United States. It is his inherent obligation and our inherent obligation to conduct these in such a way that we protect the home security of this Nation while still giving a fair and full trial to the defendant, which can be realized under a military tribal.

Let me go back to the Wall Street Journal. The larger point here is that military tribunals are not some Big Brother invasion across the normal rules of justice. They are a commonsense and historically well-established way to cope with the unusual demands of war against terrorism. As recently as 1996, the Clinton administration rejected Sudan's offer to turn over bin Laden because it did not think it had enough evidence to convict him in a military court. A military tribunal would have been very handy at that point in time because of the pressures that would have been applied by, frankly, the defense attorneys working in this case.

Now, the Defense Department, we would expect here in the next few days, would have probably many more specifics in regard to these military tribunals. What I am saying to my colleagues tonight is before you jump on the bandwagon of criticizing these military tribunals, do a couple of things. Number one, use common sense. And when you are thinking about common sense, think about, number one, are we protecting the Constitution? Common sense would say, well, is there some history to it? The answer would be yes. We have had military tribunals throughout the history of this country, starting with the Revolutionary War, as a result of the Lincoln assassination, as a result of two or three acts in World War II. We have a history of military tribunals.

Common sense says, okay, there is a history. The facts points out there is a history. Is it constitutional? Common sense again says look at the facts. The Supreme Court on two separate occasions has answered that very direct question and the answer has been yes, they are constitutional. Use some common sense about the security of the people that will be involved in the trial. How can you guarantee the security of some regular Joe or regular Jane down there and say, hey, we want you to serve on the jury against one of these people that we think was connected with the terrorism acts of September 11, do not worry about your security?

What are you going to do with these judges? Protect them for the rest of their lives, or jury for the rest of their lives? Think about the logistics. Think about common sense.

Does it make a lot of sense to have these trials at the Federal courthouse in downtown Denver or in New York City, in downtown New York City, around populated centers? Or does it make more common sense because it is constitutional to do it, to hold it out on a military base where you allow the defendant still a fair and full trial and the right to counsel?

I think it is so important as we discuss there that you not sign on to this argument that on its face military tribunals make no sense; that it is a move by the Bush administration to somehow subvert the Constitution.

In fact, it is my belief that a lot of the arguments against military tribunals today are in fact not based on real objection to military tribunals, but instead designed as a political weapon against the Attorney General. That in fact they are designed to try, and somehow because President Bush is so popular today, that somehow the way to try and dent Bush's popularity is to go after his Attorney General. And so military tribunals use the sensitive words like secretive and lack of rights and unconstitutional. I think my comments showed you tonight, one, the reason for secrecy and it does not deny a fair trial to the defendant. Two, the fact it is constitutional. Three, the common sense needs to have it at a military base. Those all point out that the arguments being used by the other side really in most cases are being fictitious and more directed at trying to ruin the credibility of an Attorney General in an effort to get at the President.

Because when you sit down with most Americans and you say let us talk about security, let us talk about the Constitution, let us talk about the fairness of these trials, let us talk about the history of these trials, you will find agreement. Most Americans are concerned about the security of this Nation. Every American is concerned because it may be them someday.

□ 2300

Every American is concerned that a fair trial be held there, including our United States Supreme Court; and do not believe for one minute that the United States Supreme Court is going to look the other way on a trial that does not allow the defendant a fair trial. That is not going to happen. They would throw it out in a heartbeat, and this is not what we want. We want a fair trial, but we want security for America. Homeland security has to be our number one policy here while staying within the bounds of the Constitution, which we do with military tribunals.

Let me spend my last few minutes on some other facts, and that is, we have heard about these detentions across the country. Once again, a wide distortion of the facts. Currently in the United States of America, remember that these deportations, these are people in violation of some law.

I heard a lawyer tonight on TV who was representing a student whose visa was expired, and he was deeply offended by the fact that this person was detained and questioned by immigration. He is in violation. He should have not been here. He should have gone back to his own country. He was invited as a guest, as a student of this country. His student visa expires, he gets caught, and his lawyer shows up saying, oh my, the wolves are picking on my client.

I do not know why his client is still in the United States of America. I do not know why they do not send him back. Once he is released, they should kick him out of the country. His visa has expired. We have got to enforce our

border policies. I am not saying lock down the borders. I never have, but the laws we have, we have got to enforce.

These detentions, there are 20,000 people as we speak, 20,000 plus people as I speak this evening, in immigration detention across this country. We have heard that we have got, oh, probably 5 percent, 600 or 1,000, people in detention for various violations of the law as a result of the September 11 incident, and those people are being questioned.

The distortion of facts is they would have us believe that these people's names cannot be revealed. The government's not going to give out their names. Why should we? We should not give out their names. All we do is provide the al Qaeda network and other people who do not hold the best interests of the United States of America in their heart, we provide them information of exactly what we are doing.

We cannot deny one of the detainees, one of the people who is being held in detention. They have every right to tell their attorney or to disclose their own name. So their name can be disclosed. We are not just going to do it for them. They can do it if they wish. Their attorney can come out tomorrow morning, have a press conference and say John Jones right here is being detained; he wants everybody to know his name. They are allowed to do that. Do not buy into this distortion that people are being detained and nobody will ever know their names. They will, if those people choose to have their names known.

I think it is important to remember of those 600-and-some-odd people that are being detained, over a hundred of them are being detained on serious Federal charges. We cannot play games here. This is a very serious threat to the United States of America, and I do not have to say it twice because everybody in this room, everybody in this room saw what happened on September 11. We witnessed it. I do not have to play games here.

We better be serious about the investigation of these people. We better not let a few threats, oh, my gosh, you are hurting their feelings, we better put that aside. We have got the security of the United States of America to worry about, and we can count on the fact that these terrorists will strike again. With good investigative work that I would add is constitutional, with good investigative work that I would add is fair, with good investigative work that has common sense to it, we can prevent a lot of these future terrorist acts.

Do not buy into this politically correct theory that any kind of aggressive action by the investigative agencies is somehow a violation of privacy or somehow unconstitutional. All we are doing is asking for it. It is like getting in a fistfight and putting your fists down and saying maybe it is unfair for me to defend myself because you do not hit as fast as I do, so maybe I ought to put my fist down.

That is an analogy. We should not put our guard down. This is a time when we ought to have our guard up, and we ought to use every tool that is constitutional and every tool that allows common sense, frankly; and that is a lot of what this is about, to protect the security of the people of this Nation. We cannot allow these acts of aggression to occur again, if at all we can stop it ahead of time. That is what we need to do in this country.

I ask my colleagues, listen to these detentions; and by the way, as they listen to these interviews that are being requested, they are not required and we have heard people say, well, it is race profiling because the government has asked people who are visiting this country, they are not asking citizens of this country, they are asking people who are visiting from foreign countries who are visiting, who are guests of the United States of America, they are asking them to voluntarily, not mandatory, they are not being arrested, they are not being detained. The government, the President, our leadership has said, look, you are from the Middle East, you are from these countries, you are visiting our country, could you help us, do you have anything you could tell us, would you come down and talk to us. And you never know, what may not seem important to you is very important to us to try and prevent future acts of terrorism.

These people are not being detained against their will. They are asked voluntarily to come in. Somebody said the other day we are race profiling; all you are doing is asking people of Afghan descent or people from Afghanistan or Arab people or people of Middle East descent to come in.

Well, geez, let me tell my colleagues something. I mentioned earlier I used to be a cop, and once in a while we would be called to the high school for a fight, and guess who we asked questions of when we got to the high school, the students. Now, some would say, well, now wait a minute you better ask the other people, you are just picking on the students. I heard that a lot. You are just picking on the students. Who do you think knows about the fight? It is a student fight. Maybe, maybe the students know the most about it. So we always would ask the students questions.

It is the same thing here. I am just concerned as I have heard the news in the last few days that the further away we get from September 11 the more some people are buying into this argument that some how the United States should continue to proceed with its hands handcuffed behind it; that the United States should not have an advantage, not an unfair advantage, but any kind of advantage.

We had one person suggest at the beginning of the war that maybe we were a bully because we had high-tech weapons. We do not need to pile guilt upon ourselves. We are not the party that started this fight. We are the party that is going to end it, but we are not the party that started this.

As a party, we have a fundamental responsibility not to handcuff our hands behind our back, not to intentionally disadvantage ourselves so that we poke our chin out at the enemy so they can pop it once again.

So I ask all of my colleagues, please give this consideration. My colleagues should always ask if it is constitutional, but the moment they find out it is and there is precedent for it, which there is in all of the cases which I have mentioned this evening, then proceed to the next point: Does it make common sense? Does it defend the interests of the people of the United States? Does it help prevent future terrorist actions?

It is time to get tough. It is time to roll up our shirt sleeves and say we have had enough of this. We are going to go out, and we are going to stop terrorism once and for all, and that is exactly what our President and his administration is intending on doing, and that is exactly what we should do as Members of the United States Congress. We should support our President, and we should support the Attorney General and our Vice President and Condoleezza Rice and the team and we should go out and do everything we can to do our part in stopping terrorism against the citizens of the United States and against all people of the world.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DEFAZIO (at the request of Mr. GEPHARDT) for today on account of personal business.

Mrs. ROUKEMA (at the request of Mr. ARMEY) for today and the balance of the week on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LYNCH) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. LYNCH, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

(The following Members (at the request of Mr. CANTOR) to revise and extend their remarks and include extraneous material:)

Mr. GANSKE, for 5 minutes, December 5.

Mr. PENCE, for 5 minutes, today.

Mr. GEKAS, for 5 minutes, December 5 and 6.

Mrs. JO ANN DAVIS of Virginia, for 5 minutes, December 5.

Mrs. MORELLA, for 5 minutes, December 5.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 717. An act to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Duchenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and Emery-Dreifuss muscular dystrophies.

H.R. 1766. An act to designate the facility of the United states Postal Service located at 4270 John Marr Drive in Annandale, Virginia, as the ''Stan Parris Post Office building''.

H.R. 2261. An act to designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the ''Earl T. Shinhoster Post Office''.

H.R. 2291. An act to extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

H.R. 2299. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

H.R. 2454. An act to designate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the ''Congressman Julian C. Dixon Post Office''.

H.J. Res. 71. Joint resolution, amending title 36, United States Code, to designate September 11 as Patriot Day.

ADJOURNMENT

Mr. MCINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Wednesday, December 5, 2001, 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:

4689. A communication from the President of the United States, transmitting authorization of transfers from the Emergency Response Fund for emergency recovery and response and national security activities; (H. Doc. No. 107–153); to the Committee on Appropriations and ordered to be printed.

4690. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–187, ''Impacted Resident Economic Assistance Temporary Act of 2001'' received December 3, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

4691. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–184, ''Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2001'' received December 3, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

4692. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–183, ''Mandatory Autopsy for Deceased Wards of the District of Columbia and Mandatory Unusual Incident Report Temporary Act of 2001'' received December 3, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

4693. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–182, ''Public Disclosure of Findings and Information in Cases of Child Fatality or Near Fatality Amendment Act of 2001'' received December 3, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

4694. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–177, ''Parking Meter Fee Moratorium Temporary Act of 2001'' received December 3, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

4695. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–174, ''Chief Financial Officer Establishment Reprogramming During Non-Control Years Technical Temporary Amendment Act of 2001'' received December 3, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

4696. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–173, ''Sentencing Reform Technical Amendment Temporary Act of 2001'' received December 3, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

4697. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–172, ''Redevelopment Land Agency-RLA Revitalization Corporation Transfer Temporary Act of 2001'' received December 3, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

4698. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–169, ''Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2001'' received December 3, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

4699. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–170, ''Closing of a Portion of F Street, N.W., S.O. 99–70, Act of 2001'' received December 3, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

4700. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Bayou Lafourche, LA [CGD08–01–032] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4701. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: New Rochelle Harbor, NY [CGD01–01–195] (RIN: 2115–AE47) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4702. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Hutchinson River, Eastchester Creek, NY [CGD01–01–182] (RIN: 2115–AE47) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4703. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Inner Harbor Navigation Canal, LA [CGD08–01–037] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4704. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills and their tributaries, NY [CGD01–01–176] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4705. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Southern Branch of the Elizabeth River, Atlantic Intracoastal Waterway, Chesapeake, Virginia [CGD05–01–065] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4706. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; SR 84 Bridge, South Fork of the New River, mile 4.4, Ft Lauderdale, Broward County, Florida [CGD07–01–127] (RIN: 2115–AE47) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4707. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels [USCG–1999–6580] (RIN: 2115–AF70) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4708. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes [Docket No. 2001–NM–298–AD; Amendment 39–12465; AD 2001–20–17] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4709. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145 Series Airplanes [Docket No. 2000–NM–321–AD; Amendment 39–12436; AD 2001–18–10] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4710. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9 Series Airplanes and MD–88 Airplanes [Docket No. 2001–NM–264–AD; Amendment 39–12463; AD 2001–20–15] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4711. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model Beech 400A Series Airplanes [Docket No. 99–NM–157–AD; Amendment 39–12455; AD 2001–20–07] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4712. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fairchild Aircraft, Inc. Models SA226 and SA227 Series Airplanes [Docket No. 2000–CE–28–AD; Amendment 39–12462; AD 2001–20–14] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4713. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Gulfstream Model G–V Series Airplanes [Docket No. 2001–NM–305–AD; Amendment 39–12477; AD 2001–21–06] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4714. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company T58 and CT58 Series Turboshaft Engines [Docket No. 99–NE–13–AD; Amendment 39–12432; AD 2001–18–06] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4715. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Enstrom Helicopter Corporation Model F–28, F–28A, F–28C, F–28F, 280, 280C, 280F, and 280FX Helicopters [Docket No. 2001–SW–28–AD; Amendment 39–12479; AD 2001–22–01] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4716. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 30271; Amdt. No. 431] received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4717. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Time of Designation for Restricted Area R–4403; Gainesville, MS [Docket No. FAA 2001–10527, Airspace Docket No. 01–ASW–10] (RIN: 2120–AA66) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4718. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters [Docket No. 2000–SW–67–AD; Amendment 39–12466; AD 2001–20–18] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4719. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model SA.315B, SA.316C, SA 3180, SA 318B, SA 318C, SA.319B, SE.3160, and SA.316B Helicopters [Docket No. 2001–SW–36–AD; Amendment 39–12467; AD 2001–18–51] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4720. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76B and S–76C Helicopters [Docket No. 2001–SW–01–AD; Amendment 39–12134; AD 2001–03–51] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4721. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Agusta Model AB412 Helicopters [Docket No. 2001–SW–22–AD; Amendment 39–12425; AD 2001–17–33] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4722. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS350B, B1, B2, B3, BA, D, D1 and AS355E, F, F1, F2, and N Helicopters [Docket No. 2000–SW–47–AD; Amendment 39–12424; AD 2001–17–32] (RIN: 2120–AA64) received November 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

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. HYDE: Committee on International Relations. S. 494. An act to provide for a transition to democracy and to promote economic recovery in Zimbabwe; with an amendment (Rept. 107–312 Pt. 1). Ordered to be printed.

Mr. TAUZIN: Committee on Energy Commerce. H.R. 3046. A bill to amend title XVIII of the Social Security Act to provide regulatory relief, appeals process reforms, contracting flexibility, and education improvements under the Medicare Program, and for other purposes; with an amendment, (Rept. 107–313 Pt. 1). Ordered to be printed.

Mr. HANSEN: Committee on Resources. H.R. 2238. A bill to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes; with an amendment (Rept. 107–314). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3322. A bill to authorize the Secretary of the Interior to construct an education and administrative center at the Bear River Migratory Bird Refuge in Box Elder County, Utah (Rept. 107–315). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Financial Services discharged from further consideration. S. 494 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

S. 494. Referral to the Committee on Financial Services extended for a period ending not later than December 4, 2001.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

[Omitted from the Record of November 29, 2001]

By Mr. SHADEGG (for himself and Mr. MCINNIS):

H.R. 3385. A bill to direct the Consumer Product Safety Commission to issue rules that set safety standards for marine internal combustion engines, including in regard to the emissions of toxic fumes, and for other purposes; referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

[Submitted December 4, 2001]

By Mrs. JOHNSON of Connecticut (for herself, Mr. STARK, Mr. TOOMEY, Ms. BERKLEY, Mr. THOMAS, Mr. RANGEL, Mr. BILIRAKIS, Mr. BROWN of Ohio, Mr. TAUZIN, Mr. DINGELL, Mr. ABERCROMBIE, Mr. BARRETT, Mr. BARTON of Texas, Mr. BRADY of Texas, Mr. BRYANT, Mr. BURR of North Carolina, Mr. BUYER, Mr. CAMP, Mrs. CAPPS, Mr. CARDIN, Mr. CRANE, Mr. DEAL of Georgia, Mr. DEUTSCH, Ms. DUNN, Mr. EHRLICH, Mr. ENGLISH, Mr. FOLEY, Mr. GANSKE, Mr. GREEN of Texas, Mr. GREENWOOD, Mr. HALL of Texas, Mr. HAYWORTH, Mr. SAM JOHNSON of Texas, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. LEWIS of Kentucky, Mr. LUTHER, Mr. MALONEY of Connecticut, Ms. MCCARTHY of Missouri, Mr. MCCRERY, Mr. MCDERMOTT, Mr. MCNULTY, Mr. NORWOOD, Mr. NUSSLE, Mr. PALLONE, Mr. PICKERING, Mr. PORTMAN, Mr. RAMSTAD, Mr. RUSH, Mr. SHADEGG, Mr. SHAW, Mr. SHIMKUS, Mr. STENHOLM, Mr. STRICKLAND, Mrs. THURMAN, Mr. TOWNS, Mr. UPTON, Mr. WAXMAN, Mr. WELLER, and Mr. WHITFIELD):

H.R. 3391. A bill to amend title XVIII of the Social Security Act to provide regulatory relief and contracting flexibility under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the

Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTERT (for himself, Mr. ACKERMAN, Mr. ARMEY, Mr. BOEHLERT, Mr. CROWLEY, Mr. DIAZ-BALART, Mr. DREIER, Mr. ENGEL, Mr. EVANS, Mr. FOSSELLA, Mr. FROST, Mr. GILMAN, Mr. GOSS, Mr. GRUCCI, Mr. HALL of Ohio, Mr. HASTINGS of Florida, Mr. HASTINGS of Washington, Mr. HINCHEY, Mr. HOUGHTON, Mr. ISRAEL, Mrs. KELLY, Mr. KING, Mr. LAFALCE, Mr. LINDER, Mrs. LOWEY, Mrs. MALONEY of New York, Mrs. MCCARTHY of New York, Mr. MCHUGH, Mr. MCNULTY, Mr. MEEKS of New York, Mrs. MYRICK, Mr. NADLER, Mr. OWENS, Ms. PRYCE of Ohio, Mr. QUINN, Mr. RANGEL, Mr. REYNOLDS, Mr. SERRANO, Mr. SESSIONS, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. SWEENEY, Mr. TOWNS, Ms. VELÁZQUEZ, Mr. WALSH, and Mr. WEINER):

H.R. 3392. A bill to name the national cemetery in Saratoga, New York, as the Gerald B.H. Solomon Saratoga National Cemetery, and for other purposes; to the Committee on Veterans' Affairs. considered and passed.

By Mr. MURTHA:

H.R. 3393. A bill to make additional emergency supplemental appropriations for fiscal year 2002 for urgent counter-terrorism activities; to the Committee on Appropriations.

By Mr. BOEHLERT (for himself, Mr. HALL of Texas, Mr. SMITH of Texas, Mr. BAIRD, Mr. SMITH of Michigan, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 3394. A bill to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes; to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CHRISTENSEN (for herself, Mr. UNDERWOOD, and Mr. ACEVEDO-VILA):

H.R. 3395. A bill to amend the Tariff Act of 1930 to permit duty drawback for articles shipped to the insular possessions of the United States; to the Committee on Ways and Means.

By Mr. GREEN of Wisconsin:

H.R. 3396. A bill to amend title 18, United States Code, to prohibit aiding terrorists; to the Committee on the Judiciary.

By Ms. HARMAN (for herself, Mr. WELDON of Pennsylvania, Mr. MORAN of Virginia, Mr. GILMAN, Mr. MCINTYRE, Mr. FRELINGHUYSEN, and Mr. BALLENGER):

H.R. 3397. A bill to provide for the expedited and increased assignment of spectrum for public safety purposes; to the Committee on Energy and Commerce.

By Mr. ISRAEL:

H.R. 3398. A bill to provide Federal reimbursement to State and local governments for a 30-day sales, use, and retailers' occupation tax holiday; to the Committee on Ways and Means.

By Mr. MATSUI:

H.R. 3399. A bill to authorize the Secretary of the Army to carry out a project for flood protection and ecosystem restoration for Sacramento, California, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of Michigan (for himself, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BOEHLERT, and Mr. HALL of Texas):

H.R. 3400. A bill to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 2003 through 2007 for the coordinated Federal program on networking and information technology research and development, and for other purposes; to the Committee on Science.

By Mr. RADANOVICH:

H.R. 3401. A bill to provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of unconveyed lands comprising the Center, and for other purposes; to the Committee on Resources.

By Mr. RANGEL (for himself, Mr. NADLER, Mrs. MALONEY of New York, Mr. SERRANO, Mr. TOWNS, Mr. HINCHEY, Mrs. MCCARTHY of New York, and Mr. MCNULTY):

H.R. 3402. A bill to provide tax incentives for the recovery of businesses in the City of New York which were impacted by the September 11, 2001, terrorist attacks; to the Committee on Ways and Means.

By Mr. WEINER:

H.R. 3403. A bill to direct the Secretary of Transportation to issue a final regulation prohibiting certain aircraft departing from John F. Kennedy Airport in Queens County, New York, from flying over the Rockaway Peninsula in Queens County, New York; to the Committee on Transportation and Infrastructure.

By Mr. GRAHAM (for himself, Mr. GOSS, and Mr. HYDE):

H.J. Res. 75. A joint resolution regarding the monitoring of weapons development in Iraq, as required by United Nations Security Council Resolution 687 (April 3, 1991); to the Committee on International Relations.

By Mr. HYDE (for himself, Mr. LANTOS, Mr. GILMAN, Mr. ACKERMAN, Mr. WATTS of Oklahoma, Mr. WYNN, Mr. MCNULTY, Mr. DEUTSCH, Ms. BERKLEY, Mr. WEINER, Mr. BERMAN, Mr. ENGEL, Mr. HASTINGS of Florida, Mr. WAXMAN, Mr. NADLER, Mr. CROWLEY, Ms. ROS-LEHTINEN, Mr. CANTOR, Mr. FLAKE, Mr. LEACH, Ms. SCHAKOWSKY, Mr. KING, Mr. ROTHMAN, Mr. WEXLER, Mr. SHERMAN, Mrs. LOWEY, Mr. SMITH of New Jersey, Mr. CARDIN, Mr. REYNOLDS, Mr. KIRK, Mr. GRUCCI, Mr. WALSH, Mr. BLUNT, Mr. CHABOT, Mr. SOUDER, Mr. BURTON of Indiana, Mr. HORN, Mrs. KELLY, Mrs. WILSON, Ms. HARMAN, Mr. BASS, Mr. DAN MILLER of Florida, Mr. FILNER, Mrs. JO ANN DAVIS of Virginia, Mr. BOEHLERT, Mr. STEARNS, Mr. FERGUSON, Mr. DEAL of Georgia, Mr. COX, Mr. WELDON of Pennsylvania, Mr. RANGEL, Mrs. NAPOLITANO, Mr. DIAZ-BALART, Mr. FOLEY, and Mr. FRELINGHUYSEN):

H. Con. Res. 280. Concurrent resolution expressing solidarity with Israel in the fight against terrorism; to the Committee on International Relations.

By Mr. ADERHOLT (for himself, Mr. GOSS, Mr. WOLF, Mr. SIMMONS, Mr. BACHUS, Mr. CALLAHAN, Mr. CRAMER, Mr. EVERETT, Mr. HILLIARD, and Mr. RILEY):

H. Con. Res. 281. Concurrent resolution honoring the ultimate sacrifice made by Johnny Micheal Spann, the first American killed in combat during the war against terrorism in Afghanistan, and pledging continued support for members of the Armed Forces; to the Committee on Intelligence (Permanent Select).

By Mr. NUSSLE:

H. Res. 301. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 184: Mr. HASTINGS of Florida.

H.R. 218: Mr. GUTKNECHT, Mr. BORSKI, Mr. DEMINT, and Mr. SHUSTER.

H.R. 280: Mr. CRANE and Mr. NEY.

H.R. 488: Mr. CARDIN, Mr. RUSH, Mrs. MEEK of Florida, and Mr. SCHIFF.

H.R. 563: Mr. FROST and Mr. SHADEGG.

H.R. 709: Mr. QUINN.

H.R. 765: Mr. FILNER.

H.R. 831: Mr. SNYDER.

H.R. 902: Mr. UDALL of New Mexico.

H.R. 950: Mr. BILIRAKIS, Mr. STEARNS, and Mrs. CUBIN.

H.R. 997: Mr. SANDERS.

H.R. 1011: Mr. WYNN.

H.R. 1178: Mr. MCGOVERN.

H.R. 1198: Mr. AKIN.

H.R. 1211: Mr. KENNEDY of Rhode Island and Mr. SHADEGG.

H.R. 1212: Mr. DOOLITTLE.

H.R. 1265: Mr. SMITH of Washington.

H.R. 1273: Mr. LARGENT.

H.R. 1343: Mr. ROSS and Ms. ROS-LEHTINEN.

H.R. 1377: Mr. OSBORNE, Ms. HART, and Mr. FORBES.

H.R. 1400: Ms. SOLIS.

H.R. 1433: Mr. SERRANO, Mr. HINCHEY, and Mr. RANGEL.

H.R. 1436: Mr. WALSH and Mr. GRUCCI.

H.R. 1556: Mr. PAYNE.

H.R. 1586: Mr. HOUGHTON and Mr. FALEOMAVAEGA.

H.R. 1793: Mr. OSBORNE.

H.R. 1819: Mr. FLETCHER.

H.R. 1839: Mr. LIPINSKI.

H.R. 1949: Mr. FILNER.

H.R. 1975: Mr. ETHERIDGE.

H.R. 1984: Mr. SCHAFFER.

H.R. 2012: Mr. FILNER.

H.R. 2037: Mr. COMBEST, Mr. ROHRABACHER, Mr. PLATTS, Mrs. THURMAN, Mr. TURNER, and Mr. GREENWOOD.

H.R. 2074: Ms. MCCARTHY of Missouri.

H.R. 2118: Mrs. KELLY.

H.R. 2148: Mr. SPRATT.

H.R. 2162: Mr. RODRIGUEZ and Mr. HINOJOSA.

H.R. 2220: Mr. CLEMENT, Ms. SOLIS, and Mr. LIPINSKI.

H.R. 2235: Mr. TURNER.

H.R. 2258: Ms. MCCOLLUM.

H.R. 2348: Mr. BECERRA, Mr. SCOTT, Mr. GIBBONS, and Mr. JACKSON of Illinois.

H.R. 2349: Mr. RAHALL and Mr. BACA.

H.R. 2363: Mr. UDALL of New Mexico.

H.R. 2374: Mr. WATKINS and Mr. RYAN of Wisconsin.

H.R. 2419: Mr. CLAY and Ms. DELAURO.

H.R. 2423: Mr. BARTLETT of Maryland.

H.R. 2439: Mr. BONIOR.

H.R. 2573: Mr. HINCHEY.

H.R. 2574: Mr. SCHAFFER and Mr. SOUDER.

H.R. 2588: Mr. SHAYS, Mr. DOYLE, and Mr. TERRY.

H.R. 2623: Mr. TIERNEY and Ms. SCHAKOWSKY.

H.R. 2638: Mr. LAHOOD, Mr. STRICKLAND, Ms. SCHAKOWSKY, Mr. MALONEY of Connecticut, and Ms. DELAURO.

H.R. 2670: Mr. STUPAK.
H.R. 2690: Mr. KENNEDY of Rhode Island.
H.R. 2726: Mr. GREEN of Wisconsin.
H.R. 2733: Mr. SMITH of Michigan.
H.R. 2749: Mr. HASTINGS of Washington.
H.R. 2775: Mr. KUCINICH.
H.R. 2901: Mr. SMITH of New Jersey and Mr. CAPUANO.
H.R. 2917: Mr. HASTERT, Mr. ARMEY, Mr. DELAY, Mr. WATTS of Oklahoma, Ms. PELOSI, Mr. LANGEVIN, Mrs. TAUSCHER, Mr. MCINNIS, Mr. ROGERS of Kentucky, Mr. PITTS, Mr. WICKER, Mr. CANTOR, Mr. JENKINS, Mr. RYUN of Kansas, Mr. GRUCCI, Mr. NUSSLE, Mr. LAHOOD, Mr. BAKER, Mr. BRADY of Texas, Mr. BURTON of Indiana, Mr. CHABOT, Mr. GREEN of Wisconsin, Mr. CANNON, Mr. BROWN of South Carolina, Mrs. CAPITO, Mr. EHLERS, Mr. CULBERSON, Mrs. EMERSON, Mr. GOSS, Mr. HAYES, Mr. HORN, Mrs. JOHNSON of Connecticut, Mr. MANZULLO, Mr. MICA, Mr. GARY G. MILLER of California, Mrs. NORTHUP, Mr. OSE, Mr. SHADEGG, Mr. SHERWOOD, Mr. SHUSTER, Mr. SIMPSON, Mr. TOOMEY, Mr. WATKINS, Mrs. WILSON, Mr. AKIN, Mr. BILIRAKIS, Mrs. BONO, Mr. BURR of North Carolina, Mr. TOM DAVIS of Virginia, Mr. FLAKE, Mr. GIBBONS, Mr. GILCHREST, Mr. GILMAN, Mr. GREENWOOD, Mr. HAYWORTH, Mr. ISSA, Mrs. MORELLA, Mr. PETRI, Mr. PICKERING, Mr. REYNOLDS, Ms. ROS-LEHTINEN, Mr. SESSIONS, Mr. SMITH of Michigan, Mr. WELDON of Pennsylvania, Mr. ALLEN, Ms. BALDWIN, Mrs. CAPPS, Mrs. DAVIS of California, Mr. MCDERMOTT, Ms. RIVERS, Mr. SANDLIN, Mr. SAWYER, Ms. SCHAKOWSKY, Mr. WAXMAN, Mr. CALLAHAN, Mr. BARR or Georgia, Mr. BEREUTER, Mrs. BIGGERT, Mr. BLUNT, Mr. BOEHLERT, Mr. BOEHNER, Mr. CASTLE, Mr. COLLINS, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. DEAL of Georgia, Ms. DUNN, Mr. FOSSELLA, Mr. GOODE, Mr. GOODLATTE, Mr. GREEN of Texas, Mr. GUTKNECHT, Mr. HEFLEY, Mr. HULSHOF, Mr. ISTOOK, Mr. KERNS, Mr. KINGSTON, Mr. MCKEON, Mr. NETHERCUTT, Mr. NORWOOD, Mr. OSBORNE, Mr. PENCE, Mr. REHBERG, Mr. RILEY, Mr. SHAYS, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SIMMONS, Mr. TERRY, Mr. YOUNG of Alaska, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. BASS, Mr. BRYANT, Mr. CLAY, Mr. CRANE, Mr. CROWLEY, Mr. CUMMINGS, Mr. BOOZMAN, Ms. DEGETTE, Ms. DELAURO, Mr. DOGGETT, Mr. DOOLITTLE, Mr. HERGER, Mr. HILL, Mr. HILLEARY, Ms. HOOLEY of Oregon, Mr. HOUGHTON, Mr. JOHN, Mr. KILDEE, Mr. KING, Mr. LARGENT, Mr. LEWIS of Kentucky, Ms. LOFGREN, Mr. DAN MILLER of Florida, Mrs. NAPOLITANO, Mr. RAMSTAD, Mr. ROYCE, Mr. RYAN of Wisconsin, Mr. SCHAFFER, Mr. STENHOLM, Mr. STUMP, Mr. SWEENEY, Mr. THUNE, Mr. TRAFICANT, Mr. UPTON, Mr. VITTER, Mr. WAMP, Mr. WOLF, Mr. DIAZ-BALART, Mr. POMEROY, and Mrs. JONES of Ohio.
H.R. 2953: Mr. WEINER and Mr. TOWNS.
H.R. 2954: Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 3019: Mr. SAWYER.
H.R. 3020: Mr. GRUCCI.
H.R. 3054: Mr. BACA, Mr. NORWOOD, Mr. MARKEY, Mr. JOHN, Ms. BROWN of Florida, Ms. ROYBAL-ALLARD, Mr. OLVER, Ms. HOOLEY of Oregon, Ms. MCCOLLUM, and Mr. WALDEN of Oregon.
H.R. 3077: Mr. FALEOMAVAEGA and Mr. TERRY.
H.R. 3131: Mr. SHERMAN.
H.R. 3149: Mrs. MEEK of Florida and Mr. PRICE of North Carolina.
H.R. 3166: Mr. ACEVEDO-VILA and Mr. BONIOR.
H.R. 3175: Mr. BROWN of Ohio, Mr. HASTINGS of Florida, and Mr. TIERNEY.
H.R. 3178: Mr. MCGOVERN.
H.R. 3192: Mr. UNDERWOOD, Mr. FALEOMAVAEGA, Mr. WALSH, and Mr. FILNER.
H.R. 3219: Mr. BEREUTER, Mr. BONIOR, and Mrs. THURMAN.
H.R. 3229: Mr. KERNS.
H.R. 3230: Mr. SHAYS.
H.R. 3239: Mr. CULBERSON.
H.R. 3248: Mr. BURTON of Indiana.
H.R. 3254: Mr. KIRK.
H.R. 3255: Ms. DEGETTE, Mrs. MINK of Hawaii, Ms. MCKINNEY, Mr. MCDERMOTT, Mr. CUMMINGS, Mr. FRANK, Mrs. NAPOLITANO, Mr. HOYER, Mr. MCNULTY, Mr. ABERCROMBIE, and Mr. JACKSON of Illinois.
H.R. 3274: Mrs. MINK of Hawaii.
H.R. 3277: Mr. MCGOVERN.
H.R. 3278: Mr. PRICE of North Carolina and Mrs. CAPPS.
H.R. 3290: Mr. BAIRD.
H.R. 3295: Mr. GILLMOR, Mr. OSE, Mr. PALLONE, Mr. LUTHER, Ms. HARMAN, Mr. TIAHRT, Mr. SAWYER, Mr. ROSS, Mr. TURNER, and Mr. KANJORSKI.
H.R. 3298: Mr. GRUCCI and Mr. HINCHEY.
H.R. 3303: Mr. STUMP.
H.R. 3306: Mr. SMITH of Texas.
H.R. 3310: Mr. FROST, Mr. TIERNEY, Mr. CARSON of Oklahoma, and Mr. BAIRD.
H.R. 3318: Mr. COSTELLO, Mr. PASTOR, and Mr. THUNE.
H.R. 3323: Mr. ROGERS of Michigan, Mr. CARDIN, Ms. DUNN, Mr. SHADEGG, Mr. BROWN of Ohio, Mr. DINGELL, Mr. BILIRAKIS, Mr. SIMMONS, and Mr. TAUZIN.
H.R. 3331: Mr. CARSON of Oklahoma.
H.R. 3337: Ms. NORTON, Mr. SCHROCK, Mr. MCGOVERN, Mrs. ROUKEMA, Mrs. CHRISTENSEN, and Mrs. MINK of Hawaii.
H.R. 3339: Mr. FROST.
H.R. 3341: Ms. WATSON, Mr. BORSKI, Mrs. MALONEY of New York, Mr. STUPAK, and Mr. RANGEL.
H.R. 3351: Mr. SHERWOOD, Mr. STUMP, Mr. PETERSON of Pennsylvania, Mr. VISCLOSKY, Mr. BONIOR, Mr. LARSEN of Washington, Mr. WICKER, Mr. ALLEN, Mrs. MCCARTHY of New York, Mr. SAWYER, Mr. ACKERMAN, Mr. RAMSTAD, Mrs. WILSON, Mr. TANCREDO, Ms. MCCOLLUM, Ms. PELOSI, Mr. POMEROY, Mr. SANDLIN, Mr. SWEENEY, Mr. EVANS, Mr. OSBORNE, Ms. BALDWIN, Mr. WELDON of Florida, Mr. EDWARDS, Mr. GONZALES, Mr. STENHOLM, Ms. DELAURO, Mrs. LOWEY, Mr. HINCHEY, Mr. REYES, Mr. JONES of North Carolina, Mr. RAHALL, Mr. MCGOVERN, Mr. HALL of Ohio, Mr. BONILLA, Mr. BLUMENAUER, Ms. KILPATRICK, Ms. BROWN of Florida, Mr. TIBERI, Mr. CLEMENT, Mr. ACEVEDO-VILA, Mr. JENKINS, Mr. OXLEY, Mr. MCINTYRE, Mr. THORNBERRY, Mr. KING, Mr. FERGUSON, Mr. DIAZ-BALART, and Mrs. JO ANN DAVIS of Virginia.
H.R. 3353: Mr. PLATTS.
H.R. 3367: Mr. SMITH of New Jersey, Mr. FERGUSON, and Mr. GRUCCI.
H.R. 3368: Ms. LEE, Ms. HOOLEY of Oregon, Mr. JONES of North Carolina, Mr. SHERMAN, Mr. KENNEDY of Rhode Island, Mr. GEORGE MILLER of California, and Mr. FRANK.
H.R. 3376: Mr. TERRY.
H.R. 3389: Mr. UNDERWOOD, Mr. SAXTON, Mr. YOUNG of Alaska, and Mr. FALEOMAVAEGA.
H. J. Res. 16: Mr. CALVERT.
H. J. Res. 54: Mr. TIAHRT.
H. Con. Res. 173: Mr. HINCHEY, Mr. SHERMAN, Mr. FARR of California, Mr. TOWNS, and Mr. GUTIERREZ.
H. Con. Res. 222: Mr. DEUTSCH and Mr. BURTON of Indiana.
H. Con. Res. 230: Ms. MCCOLLUM and Ms. DELAURO.
H. Con. Res. 232: Mr. BAIRD, Mr. BORSKI, Ms. HARMAN, and Mr. LEWIS of Kentucky.
H. Con. Res. 249: Mr. FATTAH, Mr. CONYERS, Mr. BISHOP, Mr. FRELINGHUYSEN, and Mr. JACKSON of Illinois.
H. Con. Res. 265: Mr. WEXLER, Mr. BURTON of Indiana, Mr. WHITFIELD, Mr. SKELTON, Mr. CLEMENT, Mr. JEFFERSON, Mr. RAMSTAD, Mr. MORAN of Virginia, Mr. ENGEL, Mr. ROHRABACHER, Mr. BERMAN, Mr. PITTS, Mr. GILLMOR, and Mr. LANTOS.
H. Con. Res. 267: Mr. BAIRD.
H. Con. Res. 271: Ms. DUNN and Mr. DOYLE.
H. Con. Res. 279: Mr. GOODE, Ms. HART, Mr. TOM DAVIS of Virginia, Mr. GRUCCI, and Mr. GILCHREST.
H. Res. 281: Mr. ALLEN and Mr. WOLF.
H. Res. 295: Mr. FORBES.
H. Res. 298: Mr. KERNS, Mr. JEFF MILLER of Florida, Mr. SAXTON, Mr. SESSIONS, Mr. GOODE, Mr. LAHOOD, and Mr. MCGOVERN.
H. Res. 300: Mrs. ROUKEMA, Mr. HINCHEY, Mr. DELAHUNT, Ms. BERKLEY, Mr. PLATTS, Mr. CARDIN, Mr. REYES, and Mr. ACEVEDO-VILA.

AMENDMENTS

Under Clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 3005

OFFERED BY: MR. MANZULLO

AMENDMENT NO. 1: Page 55, insert the following after line 2 and redesignate succeeding sections accordingly:

SEC. 9. ASSISTANT USTR FOR SMALL BUSINESS.

(a) ESTABLISHMENT OF POSITION.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following new paragraph:

''(6)(A) There is established in the Office the position of Assistant United States Trade Representative for Small Business. The Assistant United States Trade Representative for Small Business shall be appointed by the United States Trade Representative.

''(B) The primary function of the Assistant United States Trade Representative for Small Business shall be to promote the trade interests of small businesses, to remove foreign trade barriers that impede small business exporters, and to enforce existing trade agreements beneficial to small businesses. The Assistant United States Trade Representative for Small Business shall be a vigorous advocate on behalf of small businesses. In carrying out that advocacy function, the Assistant United States Trade Representative for Small Business shall conduct meetings throughout the United States on a regular basis in order to solicit views and recommendations from small business exporters in the formulation of trade policy. The Assistant United States Trade Representative for Small Business shall perform such other functions as the United States Trade Representative may direct.

''(C) The Assistant United States Trade Representative for Small Business shall be paid at the level of a member of the Senior Executive Service with equivalent time and service.''.

Page 4, line 17, strike ''10(2)'' and insert ''11(2)''.

Page 19, line 2, strike ''10(2)'' and insert ''11(2)''.

Page 22, line 10, strike ''10(2)'' and insert ''11(2)''.

EXTENSIONS OF REMARKS

TRIBUTE TO TRAVIS HAYWARD

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SCHAFFER. Mr. Speaker, I rise to recognize Mr. Travis Hayward of Ft. Collins, Colorado. Travis looked to the needs of our nation's children by organizing a toy and book drive to benefit those affected by the September 11th terrorist attacks. For this, Mr. Speaker, the United States Congress should commend him.

Travis donated toys and books to the East Harlem Tutorial Program after his elementary school teacher asked her students to donate one stuffed animal to the program. Travis thought this was a good start, but wanted Colorado students to give more. Through a valiant effort, Travis organized his peers to participate in this program. Travis believes a simple stuffed animal could make a difference to a suffering child because it gives them something to hug when they are upset. With the help of his family, Travis hopes to collect 220 stuffed animals and books.

In a recent edition of *The Coloradoan,* Travis' mother, Pat Hayward, said, ''We know there are many ways that the community is getting involved, but this is just one of our ways of connecting. We wanted to do a kid-to-kid thing.'' Travis' dedication and empathy toward children in need epitomizes the compassion of America's youth.

As a citizen of Colorado's Fourth Congressional District, Travis Hayward is truly an amazing, young role model. He not only makes his community proud, but also his state and country. I ask the House to join me in extending its warmest congratulations to Mr. Travis Hayward.

IN HONOR OF SERGEANT SAMUEL JEFFERSON

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor and acknowledge the many accomplishments of Sergeant Samuel Jefferson of the Jersey City Police Department. Throughout his career, he worked tirelessly to enhance the safety and well-being of the residents of Jersey City, New Jersey.

A 22-year veterans of the Jersey City Police Department, Sergeant Jefferson has enjoyed a dynamic and extensive law enforcement career. Sergeant Jefferson joined the Jersey City Police Department 1979, and was quickly promoted to the rank of Detective after assignments in the North District Division and the Radio Room. As a Detective, he spent countless hours working on cases in the Hudson County Prosecutors Homicide Division, the Welfare Investigation Unit, and the Warrant Squad. In 1990, he assumed the rank of Sergeant and was assigned to the Patrol Division. From 1991 until his retirement, Sergeant Jefferson worked in the Jersey City Policy Department's Internal Affairs Division.

Prior to his law enforcement career, Sergeant Jefferson was a decorated United States Marine. While in the Marines, he was the recipient of the Purple Heart, the Vietnam Combat Cross, the Combat Infantry Badge, and the South Vietnam Medal.

A Jersey City native, Sergeant Jefferson graduated from Lincoln High School. Currently, he enrolled at New Jersey City University and completing requirements for a BA in Criminal Justice.

Sergeant Jefferson and his wife Denise have three children and two grandchildren.

Today, I ask my colleagues to join me in honoring Sergeant Samuel Jefferson for his dedicated service on behalf of the residents of Jersey City.

TRIBUTE TO ST. LOUIS CATHOLIC CHURCH 75TH ANNIVERSARY CELEBRATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize the St. Louis Catholic Church, which celebrated its 75th Anniversary on Sunday, September 16, 2001. Truly a milestone occasion, this celebration gives testament to the outstanding dedication and commitment of the entire church and community.

Established with the generous donation of four and a half acres by Louis and Mathilda Charbeneau in 1926, the parish of St. Louis began humbly with worship services in a temporary church and a Gym-Church until its final move to Crocker Boulevard. Decades later, with much prayer, sacrifice and hard work, the parish of the St. Louis Catholic Church continues to provide love, care and concern for the entire community.

Active with many organizations, including the Parish Council, Men's Club, Ladies Circle, Senior Club and the Music Ministry, members demonstrate outstanding dedication to community involvement. With Stewardship and Worship Commissions, a Youth Group, and Religious Education for all ages, St. Louis Catholic Church is committed to building sound religious education and service for all its members. Additionally, parishioners have worked hard through the years to reach out to the entire community with charitable services under MCREST and the St. Vincent de Paul Society, as well as serving meals at the Salvation Army. With a devotion to religious education, church activities, and official services, this community will continue to move forward in the mission to improve the lives of people through faith and God.

Although history and time have changed the parish, the spirit of the church has remained strong. I would like to personally congratulate the St. Louis Catholic Church on their 75th Anniversary, and I urge my colleagues to join me in recognizing them on this landmark occasion.

NATIONAL PEARL HARBOR REMEMBRANCE DAY (S. CON. RES. 44)

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 2001

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in strong support of S. Con. Res. 44, which calls for a National Pearl Harbor Remembrance Day in celebration of the 60th anniversary of the December 7, 1941 attack on Pearl Harbor. S. Con. Res. 44 reminds us of the thousands of lives lost that bleak December morning when the Japanese Imperial Navy launched a sneak attack on America. S. Con. Res. 44 is a fitting tribute in remembrance of the lives lost that day and of the more than 12,000 members of the Pearl Harbor Survivors Association to whom this Day is also dedicated.

President Franklin Delano Roosevelt said December 7, 1941 was ''A day that will live in infamy'' and to this very day we remember Pearl Harbor for the thousands of lives that were lost tragically that morning.

Today, Americans old and young find themselves united by the two tragic attacks against this country, 60 years apart. The events of September 11 have presented many with first hand experience of the shocking and frightening realities of a terrorist attack. December 7, 1941 was no less an act of terror and treachery as was September 11, 2001.

Each year on December 7 thousands of people journey to Pearl Harbor, to pay tribute to those who lost their lives on that day. The USS Arizona Memorial sits in Pearl Harbor as a final resting place for more than 900 of the 1,177 men who lost their lives that fateful day in Pearl Harbor. Twelve ships were sunk or beached and nine others were damaged,

Families of deceased members of the crews of the ships lost on December 7, 1941, come to Pearl Harbor to place ashes in the hull of the Arizona memorial or have them scattered in the harbor, tightening the bond of valor and sacrifice for all time.

But December 7, 1941, is much more than just a tragic day in American history. The

bombing of Pearl Harbor thrust the United States into World War II, galvanizing our country to fight for freedom in two continents from which America emerged as an international leader.

In the end 16,112,566 went to fight in WWII and 405,399 lost their lives in battle.

The bombing of Pearl Harbor on December 7, 1941, brought war to the doorsteps of America and drastically challenged our resolve as a nation. It is fitting that we commemorate the 60th anniversary by declaring December 7, 2001, as National Pearl Harbor Remembrance Day, not only as a reminder of the sacrifices thousands made that this Nation could triumph, but to reflect upon the spirit that continues to sustain us as we face new challenges today in a very dangerous world.

TRIBUTE TO CLIFFORD E. LAMPMAN

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. GARY G. MILLER of California. Mr. Speaker, it is with deep regret that I rise to pay tribute to Clifford Erle Lampman, who passed away on October 28, 2001, leaving the cities that he served in California to mourn the loss of a respected business associate and friend.

After his honorable discharge from the United States Marine Corps, he graduated from the University of North Dakota and Denver University with civil engineering degrees. He obtained his Master's degree in Structural Engineering at the University of Southern California and attended Loyola Law School in Los Angeles, California. With the support of his wife, Gwen, he eventually established his own business, Lampman and Associates. Mr. Lampman's expertise in consulting and engineering soon opened doors to contracts with many California cities. Major projects that he successfully completed include the Alameda Corridor Railroad Lowering for Huntington Park and a massive three bridge project for the city of Corona. At the time of his passing, he was working for the city of Placentia as an executive advisor to the first railroad-lowering project in Orange County, known as the Orange Gateway Railroad Lowering Project.

Family, friends and business associates described Mr. Lampman as a visionary, charismatic leader, an inspirational optimist and a devout Christian who opened his heart and home to those in need of support, guidance and prayer. Four brothers and sisters, his wife, Gwen, seven children, nine grandchildren and one great-grandchild survive him, all who will experience a void that was once filled by his loving personality.

Mr. Speaker, I ask that this 107th Congress join me in celebrating the life and legacy of Mr. Clifford Erle Lampman.

IN HONOR OF AUTHUR EDWARD UNZUETA

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mrs. NAPOLITANO. Mr. Speaker, I rise today to honor and salute a heroic WWII Navy veteran and a forty-six year resident of the 34th district, Authur Edward Unzueta. Arthur represents the best of what it means to be an American; an individual devoted to both family and country. He served his country courageously and it is because of countless veterans like him that we are able to enjoy the freedoms we do today.

Arthur has had a distinguished naval career in service to his country achieving the rank of Gunner's Mate Third Class UNSR. His awards include, the Navy Good Conduct Medal for exhibiting outstanding performance and conduct during three years of continuous active enlisted service. He was also awarded the Asiatic-Pacific Campaign Medal with one silver and four bronze campaign stars for service in the Asiatic-Pacific Theatre and the World War II Victory Medal for service in the United States Armed Forces during the period 1941–1946. In addition, he earned the Philippine Liberation Ribbon, the Philippine Presidential Unit Citation and the American Campaign Medal for service in the American Theatre during WWII. After three years, two months and six days of dedicated service, Arthur was honorably discharged from the United States Navy in January 19, 1946.

The selfless attitude that characterized Arthur during his time in the military is evident in his devotion to his family and home. A resident of the 34th district since 1955, Aurthur is the proud parent of three, Gary, Sally and Paula and devoted husband of fifty-three years to Patricia. Today Aurthur takes pleasure in his retirement from a long employment at Owen's Illinois, a glass and china manufacturing company, surrounded by his four grandchildren, five great-grandchildren and his two beloved boxers.

Arthur is a model American citizen and one I am proud and honored to represent. His bravery and courage have earned him our most heartfelt appreciation and respect. Please join me in thanking Arthur for his service to our country, dedication to the community and devotion to family and home. He remains an example to us all of a true American.

TRIBUTE TO ADVENTIST CHURCH SCHOOLS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the children of the Adventist Church Schools of Colorado. These children are donating two dollars each to support the children in Afghanistan and victims of the September 11th terrorist attacks. For this, Mr. Speaker, the United States Congress should commend them.

The children in the Colorado division of the Adventist Church Schools have responded to President Bush's call to have America's youth donate one dollar to the children of Afghanistan. Moreover, they are giving an additional dollar to support the children of New York City. There are twenty-one schools in Colorado participating in this program. The money raised will significantly help those in need.

In recognizing these children, Pat Chapman, of the Rocky Mountain Conference of Seventh-day Adventists, said, ''The program will benefit a lot of children in Afghanistan, as well, as many children in New York.'' These exemplary children are excellent role models for our country.

The children in the Colorado division of the Adventist Church Schools are committed to helping in this time of tragedy. They are an example of the dedication and piety of America's youth. I ask the House to join me in extending our warmest congratulations to the children of the Adventist Church Schools of Colorado for their honorable efforts.

IN HONOR OF DEPUTY CHIEF ROBERT MARTIN OF THE JERSEY CITY POLICE DEPARTMENT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Deputy Chief Robert Martin of the Jersey City Police Department, for his outstanding law enforcement career and years of dedicated service on behalf of the residents of Jersey City.

A veteran of the Jersey City Police Department, Robert Martin excelled as a law enforcement officer. He joined the force in 1973 and was assigned to the 5th Precinct and South District Divisions. In 1979, he was promoted to the rank of Sergeant and worked in the Bureau of Supervision. As Sergeant, Robert Martin assumed responsibilities that included heading up the Investigation Division's Street Crime Unit and the Special Investigations Unit. In overseeing the operations of these two units, Robert Martin was responsible for police investigations related to robbery, organized crime, and narcotics. While heading up the Special Investigations Unit, Mr. Martin was promoted to the rank of Lieutenant and eventually assumed the rank of Captain. As a result of his unyielding work ethic, in 1991, Robert Martin was appointed as Chief of Investigations for the Hudson County Prosecutors Office. Upon returning to the Jersey City Police Department in 1997, he was promoted to Deputy Chief.

A graduate of Bergen Community College and Jersey City State College, Deputy Chief Martin also attended the F.B.I. National Academy in Quantico, Virginia, and has a Master's Degree from Seton Hall University.

I would like to extend my gratitude to Chief Deputy Robert Martin for all he has done to ensure the safety and well-being of those individuals residing in New Jersey's 13th Congressional District.

Today, I ask my colleagues to join me in honoring Deputy Chief Robert Martin for keeping our communities safe and for being an excellent role model and civic leader for the residents of Jersey City.

TRIBUTE TO INDUSTRIAL OFFICE WORKERS LOCAL UNION 889 60TH ANNIVERSARY CELEBRATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BONIOR. Mr. Speaker, today I rise to recognize the Industrial Office Workers Local Union 889, who will celebrate its 60th Anniversary on Friday, September 21, 2001. Truly a milestone occasion, 2001 marks 60 years of outstanding dedication and commitment of the organization and its members.

Established in 1941, Local 889 was the first office and clerical amalgamated local in the United Auto Workers. Located in the city of Warren since 1957, the offices of Local 889 have spanned from Mound Road to Dequindre Road, and decades later, with hard work, sacrifice and dedication, Local 889 continues to provide a center of solidarity and activism for the entire community.

With 1,600 active members and more than 2,300 retired workers, Local 889's expansive membership includes Daimler Chrysler office and clerical workers of all Chrysler plants in the metropolitan area, units at Delta Dental, Detroit Marriott, Detroit Medical Center, as well as Union Friendly Systems, Washington Township, M.C.C.S.E. Family Court, Juvenile Court, Specialized Offices, and Animal Control of Macomb County. With Local 889 International Representatives serving at the International Union and Region I of the U.A.W., the loyalty and outstanding leadership members have truly brought this organization to new heights.

Active with many organizations, Local 889 has worked hard through the years to reach out to its surrounding community with Community Action Programs, the Women's Committee, and so many recreational activities for all ages. With its Educational Session, Civil Rights, and Leadership Development programs, Local 889 has proven its commitment to promoting civic education and service for its entire community. Additionally, Local 889 has truly led the way in press and publication, as award winners from the Labor Union Press Association for quarterly issues of the Local 889 White Collar Newspaper as well as winners of 13 Marshall Recipient Awards since 1994 from the joint Chrysler-UAW National Training Center.

Although history and time have changed the Local, the spirit of Local 889 has remained strong. I would like to personally congratulate Local 889 on their 60th Anniversary, and I urge my colleagues to join me in recognizing them on this landmark occasion.

CONGRATULATIONS TO CAPTAIN JEROME BALIUKAS

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. GARY G. MILLER of California. Mr. Speaker, I rise today to congratulate Captain Jerome Baliukas for his untiring service to the United States Naval Reserve. On 8 December 2001, he will end a successful two year tour as Commanding Officer of the Naval Strike and Air Warfare Center (NSAWC 0194) at Naval Air Station (NAS) Fallon, Nevada.

Captain Baliukas was born 31 March 1952 in Miami Beach, Florida. He attended Florida International University and the University of Miami in Coral Gables, Florida where he graduated in 1974 with a Bachelor Degree in Forensic Science and a degree in Criminal Juris Prudence. He reported to Pensacola, Florida for Aviation Officer Candidate School and was commissioned an Ensign in June of 1975. Captain Baliukas was designated a Naval Aviator in Beeville, Texas in July 1976.

Orders followed to F–4 transition training at VF–121 in NAS Miramar, California. He then reported for Fleet Operational Training with Fighter Squadron One Fifty Four (VF–154), as a ''Black Knight.'' He was then designated for Landing Signal Officer Training and completed LSO School in Pensacola, Florida. In addition, he held the positions of Power Plants Branch Officer, Aircraft Division Officer, Assistant Safety Officer, and Assistant Operations Officer, in addition to completing Naval Fighter Weapons School.

Following his fleet tour, Captain Baliukas was assigned to Fighter Squadron One Hundred Twenty-One Fleet Replacement Training Squadron as an F–4 instructor and Training Landing Signal Officer. In addition, he was designated to head the Tactics Training Department and the Weapons Training Department. While attached to VF–121 he was also assigned to the Aircraft Acceptance and Carrier Suitability of the F–4S, where he assisted in the fleet transition from F–4J/N to F–4S while delivering 26 fleet ready aircraft to NAF Atsugi, Japan. Captain Baliukas was then assigned to Fighter Squadron One Hundred Twenty-Four for F–14 transition and assignment as an instructor and Training Landing Signal Officer. He then rotated back to the fleet as a Airwing Landing Signal Officer with Carrier Airwing Two at NAS Miramar where he made two more additional Westpac Tours.

Captain Baliukas affiliated with VF–302 in 1984, as a ''Stallion.'' He held numerous positions of responsibility including Department Head tours as Maintenance and Operations Officer. He served as the Squadron Executive Officer from 1991 to 1993. After the disestablishment of Carrier Air Wing Thirty, he was selected to become the Executive Officer and Commanding Officer of the ''Hunters'' of VF–201 at NAS Dallas and NAS Ft. Worth, Texas from 1994 to 1997. In 1997 Captain Baliukas was selected to join the staff of NSAWC 0287 as a Tactics Instructor and Evaluator. He became Executive Officer of the NSAWC unit in October 1999. During his career, he has accumulated over 3,700 flight hours in tactical jet aircraft and has completed over 680 day and night aircraft carrier landings.

Captain Baliukas is a captain and flight instructor for American Airlines and currently flies the Boeing B737–800 series aircraft. He and his wife Kelley reside in Yuma, Arizona.

Again, Mr. Speaker, I congratulate Captain Baliukas for his dedicated service to the United States Naval Reserves and sincerely wish him well in his future naval career.

CHESANING HIGH SCHOOL VARSITY FOOTBALL TEAM

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to the Chesaning High School Varsity Football Team, who recently won the 2001 Michigan Division 4 state title. In their heart-stopping championship game played at the Silverdome, located in Pontiac, Michigan, the Chesaning Indians defeated the Orchard Lake St. Mary's Eaglets 14-7 in overtime.

Led by Head Coach Jim Szappan and Assistant Coaches Steve Tithof, Dan Yates, Scott Menard, Gary Gerken, Mike McGough, and Joe Bogar, members of the 2001 Chesaning Indians include: Jacob Smith (1), Steve Korf (2), Tyler Alden (3), Justin Schneider (5), AJ Guerrero (6), Matt Breier (7), Jason Strachota (8), Tracey Baryo (9), Chris Anderson (11), Matt Ferry (12), Brent Bassham (17), Jacob Righi (20), Gordon McKinnon (22), Mark Jungerheld (24), Craig Welsenberger (32), Chris Barancik (33), Jason Lentz (40), Paul Tithof (41), Jason Croucher (42), Andrew Hasse (50), Joshua Gosselin (52), Brent Conklin (53), D. Shawn Plonsky (54), Jarod Hughes (55), Dan Reed (56), Juanito Escamilla (57), Jonathan Bishop (58), Nicholas D. Weigold (59), Jacob Devereaux (61), Adam Orth (62), Jacob Henige (63), Scott Schneider (68), Randy Coole (70), Justin Maxa (71), R. Michael Adelberg (75), Brandon Brainerd (80), Blake Cottrill (84), and Dennis Winkelman (99).

The dedication that these players put forth throughout the entire season is one of which the entire district can be proud. Their victory not only brought the team together in great spirit, but their family, friends, and community as well.

Once again, on behalf of the 4th Congressional District of Michigan, I would like to congratulate the coaches and members of the Chesaning High School Varsity Team on their achievement. I wish them the best in their future football seasons.

CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. MATSUI. Mr. Speaker, I rise today to express my most sincere appreciation to the Transportation Appropriations conferees for their outstanding work in preparing the FY 2002 Transportation Conference report. In recent years, Sacramento has become one of the fastest growing regions in the country. This sudden surge in population has led to massive traffic congestion and severe air quality problems. Ensuring that Sacramento's infrastructure can simultaneously accommodate this growth and improve the region's air quality is absolutely essential.

I am grateful for Chairman ROGER's and Ranking Member SABO's commitment to providing appropriate funding levels for several ongoing programs that are of vital importance to maximizing efficiency in the greater Sacramento region. These funds will provide much needed transportation options to lower-income individuals, improve the region's air quality and improve traffic flow in impacted corridors.

In addition, the inclusion of first time funding for the Interstate 5 Freeway Decking Project represents a tremendous boost for the Sacramento Riverfront Redevelopment Master Plan. Once complete, this decking project will allow the downtown Capitol Mall area to be reconnected with the waterfront, helping Sacramento to realize its long-term goal of linking its major recreational, entertainment and cultural districts with its major employment center.

The beneficial effects of these projects are endless. I could not be more pleased with the outcome of this conference report and remain grateful for the unwavering support of this committee.

CONDEMNATION OF HUMAN CLONING

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SCHAFFER. Mr. Speaker, I rise today to express in the most serious terms my opposition to the recent acts of Advanced Cell Technology in Massachusetts to create the first cloned human embryo. Most scientific discoveries are a step forward for human kind, but ACT's announcement over the Thanksgiving holiday does not pose such promise. Instead, it signifies a sick and perverted experiment that will result in the destruction of hundreds of lives and the devaluing of all human life.

We all remember Dolly the sheep, the first cloned animal in the world. Well, Mr. Speaker, Dolly was the result of 277 attempts at creating a cloned sheep. Sheep numbers 1–276 didn't make it. They all died in different stages of development and were discarded. Do we want to allow such experimentation to be conducted on the human race? If we allow such a mad science to occur, we will be permitting the same kind of immoral practices as the human eugenics experiments in Nazi Germany.

Mr. Speaker, Congress must act now to ban human cloning before America becomes host to another holocaust. In July of this year, our colleagues in House acted in a timely and responsible manner to pass legislation banning human cloning. The bill passed in a bipartisan manner by more than 100 votes.

Since that time, Majority Leader of the opposing house has demonstrated an utter disregard for human life by preventing the bill from going forward at the other end of the Capitol. I now urge the majority leader of the other body to follow this House, the President and the will of the American people to bring H.R. 2505 to an immediate vote. The time is short as groups like ACT are pushing forward to create the first cloned human being. We must stop these crimes against humanity before it is too late.

IN HONOR OF TAMMY BLANCHARD

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor and pay tribute to Tammy Blanchard for winning an Emmy in her portrayal of the young Judy Garland in "Me and My Shadow: Life with Judy Garland." The Bayonne Public School System will recognize her outstanding accomplishments by declaring Wednesday, December 5, 2001, as "Tammy Blanchard Day." On December 5th, Ms. Blanchard will be honored during a fundraising party at Chandelier Restaurant in Bayonne, New Jersey. Proceeds from this event will benefit the Bayonne High School Vocal Music Program.

Tammy Blanchard has enjoyed an extensive and successful acting and modeling career that has included many awards and acclamations. She has appeared in numerous television commercials and has modeled for several teen magazines and catalogues. In addition to her acting role in "Me and My Shadow: Life with Judy Garland," Tammy Blanchard has also appeared in episodes of "Guiding Light" and "Law and Order." Future projects include acting parts in "The Promise," scheduled to be in movie theaters April, 2002, and the upcoming Lifetime television movie, "We Were the Mulvaneys."

A native of Bayonne, New Jersey, Tammy Blanchard is a 1994 graduate of Bayonne High School. She continues to reside in Bayonne, sharing a house with her mother, Ms. Patricia Rettig, and her brothers, William Blanchard III and Thomas Walters.

In light of her many accomplishments, I would like to extend my personal congratulations and my warmest regards to Tammy Blanchard for her many achievements.

Today, I ask my colleagues to join me in honoring Tammy Blanchard for her magnificent acting career and commitment to helping assist students in the Bayonne Public School System.

TRIBUTE TO DR. GENNARO J. DIMASO "2001 MAN OF THE YEAR" COLUMBUS DAY CELEBRATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BONIOR. Mr. Speaker, each year the Italian American community celebrates Columbus Day, with festivities including a weekend of food, music, and fun, as well as an annual Columbus Day Parade and Banquet. With organizations and committees dedicated to promoting and preserving the Italian-American heritage through language, culture, music, and social events, the Columbus Day Committee is no exception. Honoring distinguished Italian-Americans who have shown outstanding service in their local communites, each year the Columbus Day Committee selects individuals who demonstrate these qualities. On Sunday, October 7, as the families and friends gathered together at their annual Columbus Day Banquet, they recognized Dr. Gennaro J. DiMaso as their "2001 Man of the Year".

As past president of the St. John Guild and recipient of the Guild's Lifetime Achievement Award, Dr. Gennaro J. DiMaso has demonstrated outstanding dedication and commitment to both the Italian and American communities. Dr. DiMaso has truly dedicated his time and efforts to the care of generations of children. With an unconventional, but warm-hearted approach, Dr. DiMaso, "the doctor in blue jeans" has devoted his life and profession to providing patients with the highest standards of quality health care. Understanding that the "only treasure on Earth we have are kids", he has worked tirelessly for 44 years to meet the needs of his young patients, and never refused care to an impoverished child.

Dr. DiMaso instilled in his young eastside patients the importance of hard work and commitment to the community. As a young boy, he dreamed of becoming a doctor and helping others while he worked with his father to sell vegetables in their Brooklyn neighborhood, growing up in an area where going to high school, let alone medical school, was unheard of. He has passed along this tradition of perseverance and community service to his four children and six grandchildren.

I applaud the 2001 Columbus Day Committee and Dr. DiMaso for their leadership, commitment, and service, and I urge my colleagues to join me in saluting them for their exemplary years of leadership and service.

TRIBUTE TO SUE ELLEN PANITCH

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. OLVER. Mr. Speaker, I rise to pay tribute to Sue Ellen Panitch of Holyoke, Massachusetts for her outstanding contributions to her community. Since 1965, Ms. Panitch has been somewhat of a ''super-volunteer'' in Holyoke, having served on numerous boards and commissions, including the Conservation Commission, the Holyoke Community College Foundation, The Therapeutic Equestrian Center, The Future Begins Here, the Council of Human Understanding and the Holyoke Taxpayers Association.

Sue Ellen began her long career as a volunteer at the gift shop at Providence Hospital, and continues to this day to be one of Holyoke's greatest civic champions. Just last month, through Sue Ellen's efforts, the ''911 Fund,'' created by the Holyoke Firefighters union—Local 1693, became eligible to receive a portion of the proceeds raised at the 2002 The Future Begins Here charity event. The 911 Fund benefits victims of the September 11 terrorist attacks and their families.

Ms. Panitch's dedication to creating a better community has been so remarkable that the Holyoke Rotary Club recently honored her with its prestigious William G. Dwight Award. I can't think of a more deserving recipient of this award, and I hope that Sue Ellen will continue to contribute so selflessly to her city. Holyoke is a much better place due to her life's work. Thank you Sue Ellen Panitch.

INTRODUCTION OF THE CALIFORNIA FIVE MILE REGIONAL LEARNING CENTER TRANSFER ACT

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. RADANOVICH. Mr. Speaker, today I am pleased to introduce legislation to transfer 27.1 acres of National Forest Service property from the Stanislaus Forest to the Clovis Unified School District. By so doing, this legislation will permit the school district to continue to operate the Five Mile Regional Learning Center on this National Forest land and, more to the point, it will now allow the school district to fund vitally necessary capital improvements to the Learning Center facilities. Without this legislation, these improvements and non-federal expenditures would not be allowed and the Learning Center could not continue due to dilapidation.

This legislation, therefore, should be considered non-controversial and an exercise in cooperative and effective local, state and federal government relations.

The Five Mile Regional Learning Center is an Outdoor Environmental Education School that benefits youth from all over the state of California. Classes range from forest to raptor studies with an emphasis on natural resource conservation. In addition to the environmental education program the school district offers course work on character development, team building, and individualized challenge activities such as high ropes. During the summer the site is used by a variety of groups, including Educators, DeMolay, Girl Scouts, basketball camps and school leadership students. In addition, a number of counties in conjunction with local and state agencies bring ''At risk kids'' to the program's Life's Alternatives Involving Risks (LAIR) Adventure Academy.

The Regional Learning Center serves 138 schools from approximately 60 school districts in California. Approximately 14,000 students participated in this educational program last year. Counties served include: Contra Costa, El Dorado, Fresno, Madera, Marin, Merced, Sacramento, San Francisco, San Joaquin, San Luis Obispo, Stanislaus, Toulumne, and Tulare. It operated three basketball camps that reached nearly 1,000 boys and girls. DeMolay, Fresno North LDS, and Four Square Church account for another 400 people using the facility. A project is in development that would utilize the LAIR area as an Elderhostel site focusing on living during the Gold Rush days.

The Five Mile Regional Learning Center is a Forest Service Administrative site located in the Mi Wok Ranger District, Stanislaus Forest. The site includes bartacks, a mess hall, classrooms, a gymnasium and shop buildings. This site is 27.1 acres.

Approximately 100 additional acres adjacent to the National Forest are used as part of the comprehensive conservation/education program for trails, campsites, ballfields, bird mew sites, bird blinds, and a tree nursery.

The 120 acre Five Mile Regional Learning Center has been operated by the Clovis Unified School District since 1989. Prior to that the Fresno County Office of Education starting in 1969 operated the project.

While the Five Mile Regional Learning Center is located on National Forest Land, the federal government plays no role in the operation or maintenance of the facilities used by the program or in delivery of the educational program. The National Forest Service merely permits the use of these facilities and lands to the Clovis Unified School District, and monitors the program to ensure that permit requirements are adhered to.

The buildings and structures that are located on the 27.1 acres of main property have been in existence since the early 1960's. However, the Forest Service has not funded or appropriated monies to maintain or operate these buildings. According to Forest Service documents the ''Regional Learning Center facility has outlived its life by years and if it were not for the efforts of the Clovis Unified School District, the buildings would be in a state of disrepair useable to no one.''

In addition, Stanislaus National Forest Supervisor Ben Del Villar has stated to the Clovis Unified School District, in correspondence, ''We believe that your acquisition of the learning center would be in the best interest of the public and the Forest Service.''

Without transfer of ownership the Clovis Unified School District is prohibited from spending its money on capital improvements to ensure that these facilities do not fall into disrepair to the extent that they would be unusable.

The Clovis Unified School District has on average spent more that $1 million per year over the last 12 years on operation and maintenance.

In addition to the ongoing commitment of more than $1 million per year in operation costs, the Clovis Unified School District is willing to invest $5 million over 5 years in capital improvements and renovations to the existing facilities.

The legislation authorizes a new Special Use permit that would essentially continue the authorization for Clovis to use the adjacent 100 or so acres presently used but on which no structures in need of capital improvement exist.

The federal costs of this transfer are administrative-only and negligible to the value that the school district will be spending to increase the value of the property and run this important educational program for the children of California.

RECOGNITION OF NATALIE AURAND OF MIFFLIN, PENNSYLVANIA

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SHUSTER. Mr. Speaker, I rise today to recognize Ms. Natalie Aurand, a resident of my district from Mifflin County, Pennsylvania. The Future Farmers of America recently awarded Natalie the American Degree, their highest honor, at the organization's 74th National Convention in Louisville, Kentucky. Natalie, the daughter of Mr. & Mrs. Edwin Aurand, is a fourth generation Mifflin County Farmer and a very active member of the Big Valley FFA Chapter. She is the first person from her chapter to receive an American Degree in 17 years.

Prior to receiving her American Degree, Natalie earned her Greenhand, Chapter, and Keystone degrees by completing supervised agriculture experience projects in Beef, Swine, and Sheep finishing, Farm Hand Worker, and Home Garden. She is an extremely industrious and involved individual, having held several offices within her FFA Chapter. She continues to be active in FFA and participates in the organization's various county, state, and national events. She is currently attending Delaware Valley College where she is majoring in Agricultural Education.

Mr. Speaker, I am sure you will join me in congratulating Natalie on her accomplishment and her extraordinary service to the FFA. She is truly an outstanding individual and I wish her well in her future endeavors.

TRIBUTE TO FIRST NATIONAL BANK OF LAS ANIMAS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the First National Bank of Las

Animas, Colorado. Last month, First Bank celebrated its 100th year of business.

First National received its original charter on November 26, 1901, by the U.S. Comptroller of Currency. The history of First National can be traced to 1875 when it was then named Bent County Bank. At the time, it was the only bank between Pueblo, Colorado and Garden City, Kansas. Mr. Speaker, I congratulate the bank for its longstanding presence and exemplary service to the community of eastern Colorado.

First National Bank has long been a foundation of capitalism and commerce in Bent County. Opening with only $50,000 in capital, the bank has grown to over $102 million in assets. First National Bank has been a fixture in the community and is a key reason why Las Animas continues to be one of the strongest economic centers in eastern Colorado.

As a company located in Colorado's Fourth Congressional District, First National Bank is a source of pride for the community of Bent County and all people of Colorado. Throughout the course of history the bank has helped many Coloradans. It is with honor and pride I wish First National a happy 100th Birthday. I ask the House to join me in extending wholehearted congratulations to First National Bank of Las Animas, Colorado.

IN HONOR OF CATHERINE E. TODD

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Catherine Todd for her years of service on behalf of public housing residents in Hudson County, New Jersey. On Friday, December 7, 2001, the Jersey City Tenant Affairs Board will honor Ms. Todd at their December Board Meeting. This tribute will take place at the Montgomery Gardens housing complex in Jersey City, New Jersey.

For nearly 50 years, Catherine Todd has worked to improve the standard of living for public housing residents in Hudson County. Since 1978, she has served as the Chairperson of the Montgomery Gardens Tenant Management Corporation in Jersey City. As Chairperson, she supervises the entire Montgomery Gardens Tenant Management staff and manages their operating budget. During her tenure as Chairperson, she has initiated a day care center service and developed an afterschool program for neighborhood children.

As a result of her extensive experience in the public housing sector, Catherine Todd has served as a consultant to the U.S. Department of Housing and Urban Development and numerous other resident management associations. Currently, she serves as the Resident Management Coordinator for the Newark Housing Authority and continues to offer advice and guidance to various resident management firms.

A graduate of Ferris High School, Catherine Todd is also an alumnus of Hudson County Community College.

Today, I ask my colleagues to join me in honoring Catherine Todd for her years of distinguished service on behalf of public housing residents in Hudson County, New Jersey.

HONORING FREDERICK P. AQUIRRE

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Ms. SANCHEZ. Mr. Speaker, today I rise to honor an outstanding citizen of Orange County, Mr. Frederick P. Aguirre who has recently been honored by Orange County's United Way for his outstanding service in education to the Latino community. Mr. Aguirre has a strong sense of civic duty and is dedicated to the Latino community, to our country's veterans, and to education.

A graduate of UCLA Law School, he is a co-founder of the Hispanic Bar Association of Orange County. Currently, he serves on the Hispanic Advisory Committee of the Orange County District Attorney's office.

His support for education spans across all levels. He was a mentor through the ''Stay in School Program'' that provides tutoring to at-risk students in the Santa Ana Unified School District. He has been a speaker at elementary schools, middle schools, high schools, and at several colleges. He re-established the Placentia chapter of the League of United Latin American Citizens (LULAC), a group that provides scholarships for Hispanic youth and encourages civic participation through citizenship classes and voting. In 1994, he became a member of the Corporate Development committee of the Hispanic Education Endowment Fund. In addition, he organized and re-incorporated Latino Advocates for Education, Inc. a nonprofit organization that promotes educational excellence among our Latino students and increases quality instruction and administration in schools.

His exemplary achievements in the community are also noteworthy. As a member of the Board of Directors of the Alzheimer's Association of Orange County, he founded the Multi Ethnic Community Advisory Board. He was also a member and Chairman of the Board of the Community Advisory Board of Placentia Linda Hospital. In 1994, he organized a program offering free legal services at the Cathy Torrez Learning Center in Placentia.

In addition, he has been active in recognizing U.S. veterans. Since 1998, he has organized a Veteran's Day conference at Santa Ana College in Santa Ana, CA. These events have grown in scope each year. The most recent, the 5th Annual Veteran's Day Celebration and Scholarship Program, honored over 100 living Mexican-American World War II veterans and their families. Over 3,000 people attended, including Governor Gray Davis.

I am proud to recognize Mr. Frederick P. Aguirre for his outstanding service to the Orange County community, to education and to the Latino community. His efforts have truly touched people's lives and have had a positive impact on our community.

RECOGNIZING THE PHYSICIANS, NURSES, AND HEALTH CARE PROVIDERS OF INOVA FAIRFAX HOSPITAL

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to recognize the fine work of the physicians, nurses and other health care providers at Inova Fairfax Hospital in response to the recent cases of inhalation anthrax that befell workers at the Brentwood postal facility. Two employees of this facility, Mr. Leroy Richmond and an unnamed colleague, sought treatment at Inova Fairfax for what ultimately proved to be inhalation anthrax. For both gentlemen, the close attention and astute diagnoses of Drs. Cecele Murphy and Susan Bersoff-Matcha were literally the difference between life and death.

Physicians, nurses and other health care providers represent the difference between life and death for many, many patients with myriad conditions every day. What was special about this instance was that both doctors were dealing with a rare disease that affords little, if any, room for error. Early diagnosis of anthrax is essential in giving a patient the chance to survive—a task made all the more difficult because early symptoms of anthrax are not easily distinguishable from the flu or other common maladies. In addition, at the point when Mr. Richmond presented at the emergency room, the extent to which postal workers were at risk for exposure was not fully understood. Cast against a backdrop of profound public fear, with numerous worried patients believing they displayed signs of anthrax, the actions of Drs. Murphy and Bersoff-Matcha are all the more impressive.

Quick and accurate decisions such as those made by Dr. Murphy, Dr. Bersoff-Matcha, the nurses and staff of Inova Fairfax Hospital will be required to minimize casualties in any future bioterrorism attacks. In the anthrax attacks—the first biological assault of our new war on terrorism—these individuals have provided an outstanding example for others to follow.

TRIBUTE TO FLAGLER FFA AGRONOMY TEAM

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize the Flagler, Colorado chapter of the Future Farmers of America. The Flagler team recently attended the 74th National FFA Convention and placed fifth in the Agronomy Career Development competition.

The members of the team—Jake Michal, Nathan McCaffrey, Kyle Einspahr, BJ New, and David Wieser—were the first representatives from Colorado to compete in this event. Despite being newcomers to the competition, the team was able to persevere with an outstanding finish at this year's convention.

The FFA is dedicated to making a positive difference in the lives of young people by developing their potential for premier leadership, personal growth and career success through agricultural education. With a 74-year history, the FFA has been an integral part in continuing America's great tradition as a leader in agriculture production.

The Flagler chapter of the Future Farmers of America is a source of pride for the community of Flagler and all people of Colorado. The team has shown great strength and fortitude by placing in the top five of all teams competing. I ask the House to join me in extending wholehearted congratulations to the Flagler chapter of the Future Farmers of America team.

TRIBUTE TO DR. ROSE BELLANCA ''2001 WOMAN OF THE YEAR'' COLUMBUS DAY CELEBRATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BONIOR. Mr. Speaker, each year the Italian American community celebrates Columbus Day, with festivities including a weekend of food, music, and fun, as well as an annual Columbus Day Parade and Banquet. With organizations and committees dedicated to promoting and preserving the Italian-American heritage through language, culture, music, and social events, the Columbus Day Committee is no exception. Honoring distinguished Italian-Americans who have shown outstanding service in their local communities, each year the Columbus Day Committee selects individuals who demonstrate these qualities. On Sunday, October 7, as the families and friends gathered together at their annual Columbus Day Banquet, they recognized Dr. Rose Bellanca their ''2001 Woman of the Year''.

Demonstrating outstanding dedication and commitment to her students, her colleagues, and her community, Dr. Rose Bellanca has always been an active and enthusiastic supporter of education and advancement. Beginning her teaching career in 1973 at Fitzgerald High School in Macomb County, a short nine years later she was the first woman serving as the Director of Vocational-Technical Education in Macomb County while working for the Chippewa Valley School District. Her hard work and relentless pursuit for excellence in education led her to become Assistant to the President of Macomb Community College, where she served as Interim Vice President for Student and Community Relations and later Vice President for Planning and Development. Today, as Provost of Macomb Community College, her strong focus on students continues to be her priority, and her hard work and innovative ideas continue to make her a leader in educational advancement.

Faithfully committed to promoting her Italian American heritage as well, Dr. Bellanca is also an active member of the American Italian Professional and Business Women's Club and the Americans of Italian Origin Society. She has received the Macomb County Woman of Distinction Award by the Girl Scouts of Macomb County, as she is truly a role model for young women and young Italian American women. A devoted mother and wife of 30 years, a professional, and a friend, Dr. Bellanca truly is this year's ''Woman of the Year''.

I applaud the 2001 Columbus Day Committee and Dr. Bellanca for their leadership, commitment, and service, and I urge my colleagues to join me in saluting them for their exemplary years, of leadership and service.

CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. BEREUTER. Mr. Speaker, this Member rises in support of the conference report for H.R. 2299, the Transportation appropriations bill for fiscal year 2002.

This Member would like to commend the distinguished gentleman from Kentucky (Mr. ROGERS), the Chairman of the Transportation Appropriations Subcommittee, and the distinguished gentleman from Minnesota (Mr. SABO), the ranking member of the Subcommittee for their hard work in bringing this conference report to the Floor.

Mr. Speaker, this Member certainly recognizes the severe budget constraints under which the full Appropriations Committee and the Transportation Appropriations Subcommittee operated. In light of these constraints, this Member is grateful and pleased that this legislation includes funding for several important projects of interest to the State of Nebraska.

This Member is particularly pleased that this appropriations bill includes $1.5 million for preliminary work leading to the construction of bridges in Plattsmouth and Sarpy County to replace two obsolete and deteriorating bridges. The request for these funds was made by this Member as well as the distinguished gentleman from Nebraska (Mr. TERRY) and the distinguished gentlemen from Iowa (Mr. GANSKE and Mr. BOSWELL).

The agreement leading to the funding was the result of intensive discussions and represents the consensus of city, county and state officials as well as the affected Members of Congress. The construction of these replacement bridges (a Plattsmouth U.S. 34 bridge and State Highway 370 bridge in Bellevue) will result in increased safety and improved economic development in the area. Clearly, the bridge projects would benefit both counties and the surrounding region.

This Member is also pleased that the conference report includes $4 million for Nebraska's Intelligent Transportation System (ITS). This funding, which was requested by this Member and the distinguished gentleman from Nebraska (Mr. OSBORNE), is to be used to facilitate travel efficiencies and increased safety within the state.

The Nebraska Department of Roads has identified numerous opportunities where ITS could be used to assist urban and rural transportation. For instance, the proposed Statewide Joint Operations Center would provide a unifying element allowing ITS components to share information and function as an intermodal transportation system. Among its many functions, the Joint Operations Center will facilitate rural and statewide maintenance vehicle fleet management, roadway management and roadway maintenance conditions. Overall, the practical effect will be to save lives, time and money.

This Member is also pleased that the conference report includes $1 million for a Highway 66 bypass south of Louisville, Nebraska. This project, which has the support of the Louisville mayor and city council as well as the Cass County commissioners, would provide significant safety and economic development benefits for the area.

The conference report also includes $325,000 requested by this Member for the construction of the 1.7-mile Lewis & Clark bicycle and pedestrian trail on State Spur 26E right-of-way, which connects Ponca State Park and the Missouri National Recreational River Corridor to the City of Ponca. This trail will play an especially important role as the area prepares for the bicentennial of the Lewis and Clark Corps of Discovery expedition and the significant increase in tourism which it will help generate. The approaching bicentennial represents a significant national opportunity and it is crucial that communities such as Ponca have the resources necessary to prepare for this significant commemoration.

The trail will provide the infrastructure necessary to improve the quality of life by providing pedestrian and bicycle access between Ponca and the Ponca State Park and increases the potential for economic benefits in the surrounding region. The trail addresses serious safety issues by providing a separate off-road facility for bicyclists and pedestrians.

It is certainly important to note that this conference report includes $1.6 million for the Antelope Valley Overpass in Lincoln, Nebraska. This bridge is an integral piece of a comprehensive plan to revitalize downtown Lincoln that has emerged from a partnership between the City, the State of Nebraska, and the University of Nebraska-Lincoln. The funds would assist with the design and right-of-way phase of a bridge that would span railroad tracks. This funding will supplement the $5,625,000 which this Member had successfully sought in the 1998 TEA–21 legislation.

In addition, the conference report includes $200,000 to study the feasibility and fiscal impact of the passenger rail project between Lincoln and Omaha, Nebraska. The metropolitan areas of Omaha and Lincoln are becoming increasingly integrated. The fringes get closer together every year and the inter-city highway commuter traffic is increasing significantly. The growing congestion will only get worse in the coming years. A far-sighted approach is necessary to address the needs of commuters and others using the corridor. The proposed study is a necessary component in this process. It would examine such important issues as travel patterns, ridership potential for rail service and cost evaluations.

Adequate funding is clearly needed to make this study and the overall project a reality. A

feasible transportation alternative for the corridor would hold the promise of increased economic development, improved air quality and safety and decreased congestion.

The conference report also includes $1 million for preliminary engineering for the replacement of U.S. Highway 81 bridge at Yankton between Nebraska and South Dakota. This funding will be helpful in replacing an important bridge across the Missouri River. This funding supplements the $1.125 million this Member successfully sought in the 1998 TEA–21 legislation.

Finally, this conference includes $1.1 million for rail research to be performed jointly by UN–L and Marshall University in West Virginia. The funding will be used for safety research projects in the areas of human factors, equipment defects, and train control methods.

The University of Nebraska-Lincoln is well qualified to conduct this research. It has the necessary expertise in the area of transportation safety to provide meaningful research which will improve railroad safety. In addition, the nation's two largest railroads have a significant presence in Nebraska (one has its corporate and working headquarters in Omaha) and the state currently is traversed by the busiest railroad corridor in the world which move vast amounts of western coal to much of the rest of the nation. This funding will greatly contribute to safer rail operations throughout the country.

Mr. Speaker, in conclusion, this Member supports the conference report for H.R. 2299 and urges his colleagues to approve it.

THE INTRODUCTION OF THE NEW YORK RECOVERY FROM TERRORISM ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. RANGEL. Mr. Speaker, today I introduce legislation to provide tax incentives for the revitalization of New York City, and in particular, Lower Manhattan.

We all know of the terrible events of September 11, 2001, the awful loss of life, the heroism in the face of adversity, and the physical devastation. This was an attack not solely on New York, but on America. In the weeks following the tragedy, Lower Manhattan has suffered greatly and the economy of New York City has been struck hard, it really is America that has been struck.

I cannot begin to say how much New Yorkers are grateful for the heartfelt response of their fellow Americans and people from all over the world. The prayers, the charity, and the promises of government support have all made an enormous difference in the ability of New York to begin to respond to and recover from the crisis. As one America we have responded to this dastardly attack in Afghanistan; across America; and, in New York.

Through this unity I believe that Congress should provide the tools necessary for New York to fully recover from the attacks and assure that the vitality of Lower Manhattan be sustained.

Lower Manhattan in 1624 was the first part of then New Amsterdam settled by Europeans. It has always been the heart of New York. It has been the entry point for millions of immigrants. Beginning in the 18th century and into the 21st century it has been the heart of finance in America and today the financial center of the world.

Unfortunately, the impact of the attack on the World Trade Center has altered the character of Lower Manhattan. Many businesses have had to temporarily move out of the area. It is unclear if they will return. Many businesses depending on the traffic in the area are suffering. Many other businesses are contemplating a move out of Lower Manhattan.

The City across the five boroughs has suffered as well. Revenues for the city and state governments are down significantly. Public institutions such as hospitals are suffering financially. Projects once thought possible are now on hold.

Funds provided through FEMA will help considerably. The appropriations Congress will provide in the supplemental bill enacted after the attacks will also help. Nevertheless, there are still unmet needs and uncertainty that must be resolved.

That is why I have introduced this legislation to provide tax incentives for New York's recovery. I am very pleased that my colleague from New York, Mr. HOUGHTON, has introduced H.R. 3373, which also provides tax incentives for New York's recovery. I have cosponsored the bill. I am introducing this bill because it offers alternatives to H.R. 3373 and will allow New York Members to support varying means to speed the City's recovery. It will also allow Congress to chose the most effective and efficient provisions for the recovery.

The provisions of this bill, are for the most part, included in the Stimulus Bill reported by the Senate Finance Committee. Two of the provisions would have been amendments to the Finance Committee bill had it been considered on the Senate floor.

The bill proposes the following:

A 20 percent wage credit to employers for the first $6,000 paid per year to employees working in Lower Manhattan from September 11, 2001 to December 31, 2004. The credit is also available for wages paid employees by companies who were operating in Lower Manhattan on September 11, 2001, and have subsequently moved to another part of New York City.

An increase in the state cap for tax exempt private purpose bonds to $12.5 billion for projects in New York City. The first $7 billion of the increased cap must be used in Lower Manhattan.

A limited liberalization of the ability of issuers of tax exempt debt to advance refund existing debt. New York City, the Port Authority, the Metropolitan Transit Authority, the Municipal Water Authority and nonprofit hospitals would be able to advance refund bonds that had previously been issued to advance refund bonds where the original bonds had bee redeemed.

A special provision to allow taxpayers who lost property in Lower Manhattan as a result of the attacks to be able to expense the remaining basis in the lost property carried over to replacement property as the result of insurance payments where the replacement property is located in New York City.

A one time $5,000 nonrefundable tax credit for residents of Lower Manhattan (with no more than $5,000 credit per residence). The credit would be phased out for those residents with incomes in excess of $150,000.

I urge my colleagues, both from New York and the remainder of the nation to join together and help New York recover.

The nation will never be the same as it was before September 11. The relationship between New York and the rest of the nation will forever be altered by the attack on the World Trade Center. We are bound together as never before. Together we will rebuild.

PRICE-ANDERSON REAUTHORIZATION ACT OF 2001

SPEECH OF

HON. W.J. "BILLY" TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. TAUZIN. Mr. Speaker, in my previous remarks on this important legislation, I failed to note the important role that the Bush Administration has played in helping us get H.R. 2983 to the House floor. In particular, the Department of Energy's constructive guidance has been a real asset to us. In the course of our discussions with DOE, we have been told that the Administration has a number of concerns about the legislation, as reflected in the statement of Administration position. We will of course work closely with the Department to ensure that these concerns are addressed as the process moves forward.

TRIBUTE TO THE POETRY OF MISS SHEILA BRIDGES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. TRAFICANT. Mr. Speaker, the following was written by one of my constituents, Miss Sheila Bridges. Her poetry is a tribute to our nation, which is still standing strong and proud.

STILL STANDING

(By Sheila L. Bridges)

America, America, Young and shy, growing oh so high, yet not too high, but still standing!

America, America, they hit You once, they hit You twice, but You are still standing!

America, America, they used their words of anger, hate and pain and did not forget their sticks and stones, but You are still standing!

America, America, some called and asked You to fight, live, stay, finance and/or on their shores with one hand and they ordered, told You to get out with the other hand, but You are still standing!

America, America, help me please; so You called and ask American's to stand and/or fight; each in their own way for

a better land and safer, brighter future, but You are still standing!

America, America, Red, White and Blue; They tore You, They burned You, They spit on You, and They stepped on You too; but You are still standing!

America, America, the Young Little Eagle of the sky; put one wing on Her children and Their other wing on Your children; oh so quiet and shy, yet do not think, You can and will push Her around; because through it all, not too bold and not too high; She is still standing!

America, America, they threaten to germ, gas and bomb You while They work to destroy You; but You are still standing!

America, America, ever great nation fell due to internal problems, We have more than our share, yet united We stand, divided We fall; but Thank GOD, ABOVE, You are still Standing!

America, America, let the world stand and think; Whom will They turn and/or run to, when They need aid and help if You are not there;'' and then wake up and say ''Thank-you'' to the HIGHEST, HIGHER POWER: That ever Nation of the world has His blood and seed in this, our, their nation called the United States of America; whose still standing!

America, America, ''Thank-You for being there for Us and Oh yes, for the Them around the world too and for still standing!''

America, America, young and shy; ''Please do not die and through it all Thank GOD and then You for still standing!''

America, America, not just standing by; war or peace what shall it be; fight today, in order that We will and can stand tomorrow; but for now, still standing!

America, America, Standing oh so high; with her Mommy, Her Daddy, Her Aunt and Uncle Nations saying, Yelling; ''let Me help protect My Brothers, Sisters and Cousins too. * * * Mom, Dad, Aunt and Uncle Nations; You taught Me well and now We All are still standing!''

America, America, still standing, strong, tiered, afraid, concerned, kind, gentle and extended, yet not alone; thus, I first Thank Our GOD; then My lucky star; My Fairy Godmother and all that is fair, honest, just, clean and right; that I, We can still say ''America, America, You are still standing!''

H.R. 2983, THE PRICE-ANDERSON REAUTHORIZATION ACT OF 2001

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BARTON of Texas. Mr. Speaker, in my previous remarks on H.R. 2983, the Price-Anderson Reauthorization Act of 2001, I stated that $187 million had been paid out in response to the accident at Three Mile Island. In fact, approximately $70 million has been paid out to date, and this amount is well within the plant's primary insurance policy required by the Price-Anderson Act.

TRADE PROMOTION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. OXLEY. Mr. Speaker, this week, the House is scheduled to vote on Trade Promotion Authority legislation. Granting the President this authority once again is one of the most important actions that we can take to strengthen the U.S. economy and promote global prosperity. The attack on the World Trade Center was a symbolic assault on the free and open capital markets that underpin development throughout the world. By approving TPA, we can reaffirm our commitment to a free and open international global economy that will lift living standards across the world. I commend to your attention this Wall Street Journal article of November 29 by the Chairman and Chief Executive Officer of Goldman Sachs, Henry Paulson, Jr., entitled ''Congress Should Put Trade on the Fast Track.''

CONGRESS SHOULD PUT TRADE ON THE FAST TRACK

(By Henry M. Paulson, Jr.)

The House of Representatives will soon vote on the question of granting the president Trade Promotion Authority, also known as fast-track approval. Some in Congress have argued that now is not the time to take up legislation that has encountered such fierce protectionist opposition in recent years. But in the wake of the terrorist attacks of Sept. 11 and the current economic slowdown, it is all the more important that Congress move quickly to approve this vital measure.

This bipartisan action would inspire confidence in global capital markets. It would allow America to be seen as continuing to lead the open trade and globalization that has been so vital to the prosperity of both developed and developing countries. And it would send a powerful message that the president and Congress speak with one voice, and are committed to advancing freer trade as part of the war on terror. Indeed, approval of TPA would signal that the U.S. is not only seeking a military coalition, but an economic one.

The benefits of trade hardly need illuminating. America's exports accounted for approximately one-third of our extraordinary economic growth over the past decade, and exports now support over 12 million American jobs (nearly three million more than a decade ago). Jobs supported by exports typically pay 13% to 18% more than comparable employment.

Trade brings real economic benefits to the U.S. The North American Free Trade Agreement, and the completion of the previous round of trade negotiations (the Uruguay Round), now generate annual income gains of $1,300 to $2,000 for the average American family of four. Trade is also fundamental to economic growth in the developing world. A recent World Bank study shows that nations open to trade grow 3.5 times faster than nations closed to trade. The recent experience of countries such as South Korea, China and Chile underscore that trade is a pathway to prosperity.

Trade is a two-way street, and imports also benefit the U.S. They provide consumers with more choices and lower prices on a wide variety of goods. Imports also force our industries to constantly improve and innovate in order to remain competitive with foreign exporters.

I confess to being a bit mystified by all of the controversy about extending such a common-sense power to the president. TPA simply says that when the executive branch completes negotiations on a trade agreement and submits it to Congress for approval, that Congress cannot amend the agreement. It must simply vote yes or no.

This is standard procedure in other types of negotiations. Union negotiators don't reach agreements with management and then allow all their members to amend and debate. And as I know from 27 years in investment banking, mergers and acquisitions would never be consummated if, once negotiated, rather than being sent to a corporate board of directors for approval, they were sent to be restructured.

The most obvious aspect of the war on terror is clearly military action. But we can't forget the economic component, and primarily the gains we reap from globalization. Let's not forget that it continues to be those countries most closed to trade that are prime breeding grounds for terrorists. Moreover, to truly wage and win this war, our political unity and military power must be fortified by the strength of our economies.

Those economies are increasingly at risk. Global prosperity is threatened not only by the specter of terrorism itself, but by the slump that was deepending before the Sept. 11. Worse, it is during periods of economic distress that pressure to revert to economic nationalism and protectionism are the greatest. This is a recipe for disaster, and it must be resisted through bold and decisive action.

The two necessary actions are clear; a fiscal, consumer-oriented stimulus package and TPA. Congress is well on its way to passing a stimulus package, and should take care to keep it directed at consumers. Although trade won't provide the sort of immediate boost to the economy that a stimulus package will, trade will have greater long-term impact.

While each of the previous five presidents has been granted this authority, it lapsed in 1994. During the seven years the U.S. has been without this trade authority, other countries have moved ahead without us. Since 1990, the European Union completed negotiations on 20 free trade agreements, and is currently negotiating 15 more. Mexico now has eight agreements with 32 countries. Today out of 130 preferential trade agreements and investment agreements in the world, the U.S. is a party to only three.

This means our exporters encounter higher tariffs—if not closed markets—in other countries. Our own consumers face higher prices and fewer choices. And the U.S. sits on the sidelines as the rules of the game are set on everything from e-commerce to agriculture.

Passing TPA is the first, all-important step to restoring U.S. leadership. It will allow us to move quickly on several fronts. We can complete negotiations for free trade agreements with Chile and Singapore, build vital support for the proposed Free Trade Area of the Americas and, most important, lead a drive for a new round of global trade negotiations.

The stakes are enormous and there has never been a time in our recent history when American leadership has been needed more. TPA can be a key part of that leadership, building confidence in the global marketplace by clearly signaling that the process of globalization will continue with renewed vigor. It will enhance our economic position

in the world and strengthen our national security. The time for Congress to act is now.

PAYING TRIBUTE TO RUSTY CRICK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to congratulate Rusty Crick for his outstanding accomplishments at Mesa State College in Grand Junction, CO—a prestigious college in my District. Rusty has recently reached the impressive total of five hundred wins as the head volleyball team coach. He has coached the Mavericks for over twenty years and his accomplishment is testimony to his fine coaching abilities.

Rusty began playing volleyball while serving in the Air Force. After playing for several years, he moved on to coaching the base's men's and women's teams. In 1976, Rusty moved to Grand Junction, Colorado where he was stationed as an Air force recruiter. It was then that Rusty began coaching the Mesa State women's volleyball team. In 1982, he was promoted to the coveted head coach position, a title he has held since that time.

His accomplishments as coach are impressive. He has amassed eight RMAC championships, is second in overall victories for Colorado college volleyball coaches, and the team is ninth in overall state victories. His latest goal is for the sport of college volleyball is to obtain similar national recognition that other popular sports enjoy in the country.

Mr. Speaker, it is a great privilege to recognize Rusty Crick and congratulate him on his accomplishments. His dedication to Mesa State and the sport of volleyball has brought great credit to himself, Mesa State, and the community of Grand Junction. Keep up the good work Rusty and we look forward to watching the Mavericks in another winning season.

TRIBUTE TO ALAN BRAND: CEO OF NARCO FREEDOM, INC.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Narco Freedom, Inc. and to its Chief Executive Officer, Mr. Alan Brand, an innovative leader and steadfast humanitarian. Narco Freedom, Inc. is a Bronx-based organization that for 30 years has provided New Yorkers with a network of first-rate drug treatment and health related services. I am honored to acknowledge them on their 30th anniversary.

As CEO of Narco Freedom, Inc., Alan Brand developed a revolutionary comprehensive continuum of care that supports the recovery of thousands of drug addicts. Programs developed and reared under Mr. Brand's leadership not only aid recovery from drug addictions, but foster successful daily living skills, social skills, and mental health. Once an individual has overcome an addiction with the help of Narco Freedom, Inc., he or she will receive continued support through after-addiction treatment in order to gain or regain a higher quality of life. These addicts' families also receive support from Narco Freedom's extensive programs because often they too must rebuild their lives during and after recovery. Mr. Brand's dedication to the advancement of substance abuse treatment and to providing health services to other groups in great need led him to spearhead the only HIV Social Needs managed care plan in New York State. Mr. Brand has developed a variety of treatment plans that are geared towards specific groups of individuals. Some aid women and their children, while others focus on people who are suffering from HIV or AIDS in conjunction with a drug abuse problem. His foresight and determination allow him to set new standards when devising treatment plans.

For three decades, Narco Freedom, Inc. has helped people get off and stay off drugs and supported recovering addicts and their families with a network of programs dealing with various mental and physical health issues. The majority of Narco Freedom's clients have two major strikes against them; they are addicted to drugs and they are poor. People with the financial means to undergo the best drug treatment programs are often treated with more sympathy than poor addicts who society tends to view as "hopeless." Narco Freedom has hope for these individuals and instills hope in them via intense programs. Many of these programs were engineered or strengthened by the efforts of Mr. Alan Brand. However, the devotion and expertise of Narco Freedom's superb staff, make the great work that they do possible. A great deal of patience and an acute understanding of effective drug treatment have made this team so successful.

I ask my colleagues to join me today in honoring Narco Freedom, Inc. for 30 years of outstanding service and its CEO, Mr. Alan Brand, for expertly guiding this great organization to even more success. I would also like to thank the entire Narco Freedom team for saving and improving so many lives.

RACIAL PROFILING

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. TRAFICANT. Mr. Speaker, on Tuesday, June 6, I inserted the letter of Gerald Beulah, Jr., to the Boardman Police Department. This letter regarded "racial profiling" by the Boardman Police Department.

Today I would like to insert the response to Mr. Beulah's letter by the Boardman Police Department.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 14, 2001.

Mr. JEFFREY L. PATTERSON,
Chief of Police, Boardman Township Police Department, Youngstown, OH.

DEAR MR. PATTERSON: Thank you for your response to Mr. Gerald Beulah regarding his racial profiling case. I received a copy of your response, and it will be submitted into the Congressional Record.

Please understand that this problem will not be resolved simply by submitting your response into the Record. The fact still remains that Mr. Beulah was pulled over a total of four times, and was never issued a citation. As former Sheriff of Mahoning County, I am very well aware of the perceptions that the public has about officers of the law. I am also aware of the fact that racial profiling does, in fact, exist in many cities across the country. However, as Sheriff, I always demanded that my officers convey professionalism and respect to all the citizens of the Mahoning Valley, and as the Representative of the 17th Congressional District, I am demanding the same of you and your officers. Anything less is unacceptable and will not be tolerated.

Again, thank you for your letter, and I hope that you will continue to look into Mr. Beulah's case so that the same incident does not occur again. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,

JAMES A. TRAFICANT, JR.,
Member of Congress.

BOARDMAN TOWNSHIP
POLICE DEPARTMENT,
Boardman, OH, June 4, 2001.

Mr. GERALD BEULAH, Jr.,
Youngstown, OH.

DEAR MR. BEULAH: I received your letter last Tuesday afternoon and immediately initiated an inquiry into the issues you raised. I am writing to advise you of my preliminary findings and to invite you to meet with me or my staff to discuss your concerns in greater detail.

First, let me say that yours is the only allegation of "racial profiling" by Boardman police I have received in the nearly six months I have been chief of police here. From the portions of the Robert Mangino and Dan Ryan shows on WKBN-AM Radio 570 I heard, or that were relayed to me by others, there did not seem to be any widespread perception among the callers that African-Americans were particularly subject to unfair treatment by my officers. Nor have I received any complaints from citizens since these programs aired, nor have I been contacted by any other members of the media or by any community organizations on this issue.

Since receiving your letter, I have checked some of the more readily accessible statistics for indications of disproportionate representation of African-Americans among those cited by Boardman police for traffic violations. While I am aware that the data on citations issued does not represent all those persons who have been stopped by officers but not cited, nonetheless I believe the proportional representation is relevant to the issue. Last year, more than three-quarters (77 percent) of those cited were white, and less than one-quarter (23 percent) were African-American. To place those numbers in context, I refer you to the most recent Census data, which shows that Mahoning County as a whole is about 16 percent African-American, and the city of Youngstown—our nearest and largest neighboring community—is about 44 percent African-American. I have used those figures rather than the Census data for Boardman Township (2.4 percent African-American) because I believe they more closely represent the demographics of those who travel our streets and highways, due to the presence of several heavily-utilized routes as well as the high-density retail and commercial development within our jurisdiction.

However, I don't dispute that the perception of ''racial profiling'' exists within both the minority community and society at large, not only here in Boardman and the Mahoning Valley, but throughout the U.S. And this perception has been given credence from anecdotal evidence in reports of systematic race-based enforcement by the New Jersey State Police, among others, although valid statistical data on the problem has proven difficult to gather and analyze. We, as law enforcement professionals, are truly troubled by both the perception and—to the extent it exists—the practice of racial profiling. In response, both the International Association of Chiefs of Police (IACP) and the Ohio Association of Chiefs of Police (OACP), as well as chiefs' and sheriffs' organizations in other states, have developed model policies and training curricula to address the issue. State legislatures have proposed or adopted laws requiring policies and data collection, and the U.S. Department of Justice has taken action against not only the Los Angeles Police Department, but also, in our area, Pittsburgh and Steubenville police.

I assure you, as Boardman's police chief, I have been—and will continue to be-alert for any indications of discriminatory practices by my organization or any of its members. I believe I have an experienced, educated, and enlightened management staff, and a corps of intelligent, well-trained, and highly motivated police officers, all of them professionals dedicated to serving their community. Nonetheless, I routinely monitor statistical data, read arrest reports, review official transactions of all kinds, and pay attention to informal conversations and offhand remarks for indicators of discriminatory conduct. I also receive frequent feedback from the public on the performance of my agency and individual officers through correspondence, phone calls, and personal contacts. Thus far—other than your letter—I have had no cause for concern.

However, prior to your letter, we had already undertaken some proactive steps to further ensure that discriminatory conduct is neither practiced nor condoned by Boardman police. In March of this year, every Boardman police officer was required to watch a 16-minute training video jointly produced by the OACP, the Buckeye Sheriffs Association, and the Ohio State Highway Patrol, to reinforce the unacceptability of racial profiling. We have also been reviewing and revising our policies to explicitly prohibit discriminatory profiling of any kind. Among the draft provisions are the following policy statements:

Racial or bias-based profiling of any kind is totally unacceptable and will not be condoned. The department will utilize various management tools to ensure that racial or other prejudice is not used by officers in deciding whether to take official action.

Officers are expected to enforce the traffic laws when violations are observed, and to stop and detain motorists or pedestrians when there is reasonable suspicion that they have committed, are committing, or are about to commit a criminal act.

Officers are prohibited from stopping, detaining, searching, or arresting anyone on the basis of discriminatory profiling. This policy does not prohibit officers from stopping or detaining individuals who reasonably match the description of a specific suspect in connection with a specific crime, when race, gender, ethnic origin, or age are among the identifying attributes in the suspect's description.

I am sorry your contacts with Boardman police have not all been positive ones, but I am pleased you have had positive experiences as well. I sincerely hope I have adequately addressed your overall concerns. If you would like an investigation into any specific incident, please don't hesitate to contact me for an appointment. By law, such investigations must be handled through the proper procedures, and are not made public until they are concluded.

As Mr. Mangino read your letter aloud on his Friday program, and Congressman Traficant has taken it for inclusion in the Congressional Record and distribution to other law enforcement agencies in the 17th Congressional District, I have taken the liberty of sharing a copy of this response with them.

Sincerely,

JEFFREY L. PATTERSON,
Chief of Police.

PAYING TRIBUTE TO JOAN SINDLER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. McINNIS. Mr. Speaker I would like to take this opportunity to recognize Joan Sindler and thank her for her dedication to our educational system. She has contributed much of her time and effort to the Skyline Elementary Parent Teacher Organization as well as to other educational programs. She was recently named the Parent of the Year by the Coloado Association of Gifted and Talented and her efforts certainly deserve the praise and admiration of this body.

In addition to serving on the PTO, Joan has also been a member of the Accountability committee and the School Improvement committee. Perhaps the majority of her time is consumed by contributing a great deal of effort to the Colorado Gifted and Talented Enrichment (GATE) program in Canon City. As a member of GATE, Joan is involved in attending monthly meetings and assists with district events and special projects that ensure the continuing operation of the program.

Mr. Speaker, it is a great privilege to honor Joan Sindler and recognize her contributions to the educational system. Through people like Joan, children can rely on a quality education that focuses on their special needs and desires to excel in their education. Joan's dedication has brought great credit to herself, her family and her community and I would like to congratulate her for being named Parent of the Year.

PARMA HEIGHTS CHRISTIAN ACADEMY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor Parma Heights Christian Academy, which has been named a 2000–2001 Blue Ribbon School of Excellence by the U.S. Department of Education.

Parma Heights Christian Academy is the only private Christian school in the nation to receive the Blue Ribbon School of Excellence Award this year. In all, only 264 schools in the country earned this prestigious award this year. Blue Ribbon Schools are considered to be models of both excellence and equity where educational excellence for all students is a high priority. Parma Heights Christian Academy had to demonstrate its effectiveness in meeting local, state and national educational goals and had to successfully complete a rigorous application process. Blue Ribbon Schools must offer instructional programs that meet the highest academic standards, have supportive and learning-centered school environments, and demonstrate student outcome results that are significantly above average.

Parma Heights Christian Academy is an outstanding school that is well deserving of this national recognition. Its academic programs and environment will serve as a model for schools across the country. My fellow colleagues, please Join me In congratulating the students, teachers and administration of Parma Heights Christian Academy for their commitment to excellence.

HONORING MR. CHESTER WILLIAMS OF STATESBORO UPON HIS 90TH BIRTHDAY

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. KINGSTON. Mr. Speaker, I am pleased to honor Mr. Chester Williams of Statesboro, GA on the occasion of his 90th birthday. Chester has truly led a remarkable life, and I am proud to be able to celebrate his accomplishments with you today.

Chester Williams was born on December 4, 1911 in Stapleton, GA. He earned a bachelors degree in education from Georgia Teachers College in 1935 and a masters from the University of Georgia in 1950. Throughout his career, he has served as headmaster at four Georgia high schools; they include Reidsville High School, Folkston High School, North Habersham High School, and Metter High School. In addition he served as president of the District High School Principal's Association. Through his life as an educator, Chester has been able to expose young people to the benefits of a strong system of values and a well-rounded life. He continues to maintain daily interactions with the students from Georgia Southern University.

Mr. Williams was also a Lieutenant in the US Naval Reserve, seeing active duty in the Atlantic and Pacific War theaters. During this time he was a recognition and gunnery officer on the USS General W.G. Hann. Williams was a four-sport athlete and letterman at South Georgia Teacher's College, which is now Georgia Southern University. He is best know for earning all conference honors as a basketball guard in 1931 and 1932. He was also a member of the track team for three years, competing in the vault, high jump, and high hurdle events. In 1991 Mr. Williams was inducted into the Georgia Southern University Sports Hall of Fame.

Mr. Williams served as Speaker of the House in the Georgia Silver Haired Legislature from 1978 to 1981 and four years as a Small Claims Court magistrate judge. He and his wife currently reside in Statesboro, Georgia where he continues to serve on the city's zoning board. He is also a charter member of the Snooky's Restaurant Political Action Committee. Snooky's is Mr. Williams favorite place to eat breakfast, which is evidenced by the fact that he eats their sausage biscuit and grits every morning he is in Statesboro. He has his own special table in the restaurant. Friends come by every morning to tell him hello and receive one of his world famous hugs. Snooky's is located directly across the street from Georgia Southern University and was the location of Mr. Williams 90th birthday party today.

Certainly, Mr. Chester Williams has been a wonderful leader and role model to the many individuals he has touched throughout his life. He has demonstrated the enduring principles of education, health, patriotism, service, and leadership. It is my honor to commend the outstanding life of model citizen Chester Williams and thank him for all that he has done for the State of Georgia.

CLEAN DIAMOND TRADE ACT

SPEECH OF

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 2001

Mrs. CLAYTON. Mr. Speaker, I am pleased to rise in support of H.R. 2722. This is good legislation whose time is long past due.

I want to recognize the leadership of the gentleman from Ohio (Mr. HALL) and that of the gentleman from Virginia (Mr. WOLF), and also to compliment the gentleman from New York (Mr. HOUGHTON) for his leadership in the Committee on Ways and Means, and the gentleman from California (Mr. MATSUI) for his leadership in the Committee on Ways and Means.

I participated last April, along with five other Members, in a Congressional fact-finding trip to Botswana led by the gentleman from New Jersey (Mr. PAYNE) and the gentleman from Louisiana (Mr. JEFFERSON). Those who accompanied us on that particular delegation trip also included the gentlewoman from Indiana (Ms. CARSON) and the gentlewoman from Texas (Ms. JACKSON-LEE).

Today, I rise in support of this legislation to see how we can indeed rule out the conflict diamonds, the trade system that finances conflict, and the great devastation that is currently happening throughout regions of Africa. As part of our trip to Botswana, we examined first-hand the ''secure'' diamond industry in Africa and saw in this process how legitimate diamonds are being used in Botswana and other countries in that area. I was pleased to learn that Botswana, through a combination of democratic leadership and its seamless and secure diamond industry, is able to utilize clean diamonds to educate its people, to provide some of the African continent's strongest efforts in the fight against HIV–AIDS pandemic, and to undergird the country's overall economic and social development.

In Botswana, we met with President Mogae and members of his Cabinet. Since then, President Mogae has come to this country because he, too, wants a distinction to be made between clean diamonds and conflict diamonds. During his visit, President Mogae met with Congressional leaders in the House and Senate, Secretary Powell, and members of the Administration to express Botswana's commitment to keeping its diamond industry secure and its strong support for an international agreement on diamond certification through the Kimberley process. President Mogae has been part of the U.N., writing part of their resolution, and has made a statement to that effect that Botswana wants to be part of a clean diamond industry, and wants to be part of the force that makes this distinction.

I am pleased that this legislation is indeed focused on ending diamonds' financing of conflicts in Africa and other parts of the world. It is vitally important, Mr. Speaker, for well-intentioned legislation, such as H.R. 2722, to recognize and safeguard African nations, such as Botswana, which have secure and legitimate diamond industries, and which have no relationship to atrocities and conflicts in other nations on this continent.

I raise this point because it is important, Mr. Speaker. It is for this reason that through the leadership of Congressmen JEFFERSON, PAYNE, and RANGEL, we have worked with the distinguished author of H.R. 2722, Mr. HOUGHTON, to insert specific language recognizing that the provisions of this bill should not harm legitimate diamond-producing countries.

The good intention of this legislation also acknowledges those people who are following the law, and indeed, trying to do the right thing.

Again, I want to compliment everyone involved in this legislation. This legislation is long overdue and has been brought to bear at a time when we know that not only the conflict in Africa but now conflict in other parts of the world is being financed by diamonds. So hopefully this legislation would not only curtail, as the gentleman from Virginia (Mr. WOLF) said, the loss of lives, the lives of thousands of persons, not only killing them but killing in other parts of the country. I want to thank all the persons involved in this, and I urge my colleagues to pass this legislation that we all should be proud of.

CONFERENCE REPORT ON H.R. 2299, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

SPEECH OF

HON. JOSÉ SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 30, 2001

Mr. SERRANO Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 2299, a bill making appropriations for the Department of Transportation and related federal agencies for fiscal year 2002.

At the outset, I want to thank our Chairman, the gentleman from Kentucky, (Mr. ROGERS) and our Ranking Democrat, the gentleman from Minnesota (Mr. SABO) for bringing to the Floor a good conference report.

This legislation provides almost $59.6 billion for the Transportation Department and related agencies. Significant expenditures include $32.9 billion for the Federal Highway Administration; $13 billion for the Federal Aviation Administration; $6.7 billion for the Federal Transit Administration; and $5 billion for the Coast Guard.

This year's bill also includes $750,000 for one of my priorities, which is the eventual construction of a continuous greenway along the entire 23 miles of the Bronx River. It also includes $2 million for the Second Avenue Subway. I also would like to thank the Chairman and Ranking Member for reinstating the $20 million for the Pennsylvania Station Redevelopment Project. This money will be used to redevelop Pennsylvania Station, which involves renovating the James Farley Post Office building into a train station and commercial center.

Being a regular rider of Amtrak, I am glad that the conferees provided the requested funding level. Amtrak is an important system of transportation for the Bronx and New York City, especially after the horrendous events of September 11.

Finally, Mr. Speaker I am pleased that the conferees were able to work out a resolution regarding trucks from Mexico coming to this country in a manner that seems to satisfy all sides.

Mr. Speaker, I urge my colleagues to support the conference report.

KAZAKHSTAN'S DICTATOR MUST CLEAN UP HIS ACT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Ms. ROS-LEHTINEN. Mr. Speaker, I understand that the corrupt and repressive dictator of Kazakhstan, Nursultan Nzarbayev, plans to visit Washington early next year in search of U.S. approval and a dampening of the Administration's criticism of the Nazarbayev regime's deplorable human rights record. Following the tragic events of September 11th, Nazarbayev promised to ''support action against terrorism by all available means.'' He made it clear to a reporter that this support would include military bases and the use of Kazakhstan's air space.

Yet, Russia's ITAR–TASS news agency reported that Kazakhstan's Minister of Defense, Sap Topakbayev, stated on November 8 that Kazakhstan was not planning to set up any airfields for the U.S. Air Force on its territory. ITAR–TASS went on to quote Topakbayev as saying that ''after the tragic events in the United States, any contact with the Americans raises many questions.'' If Mr. Nazarbayev is to be granted meetings at the White House, he should at the very least be pressed to provide an unambiguous commitment to support the war on terrorism.

In addition, Moscow's Centre TV on February 17, 2001, accused the Nazarbayev regime of illegally selling weapons to ''criminal regimes.'' Centre TV reported that among the

sales were the advanced Russian-made S–300 air defense system and heavy tanks. Although Centre TV did not name the countries receiving arms from Kazakhstan, Britain's Guardian reported on August 14, 2001 that the S–300's may have ended up in Sudan. In any event, the United States has had many run-ins with the Nazarbayev regime over arms sales. Early last year, for example, Kazakhstan sold forty MIG fighters to North Korea. And on June 4, 1997, the Washington Times reported that the U.S. had protested plans by Kazakhstan to sell advanced air defense missiles to Iran. So there is a disturbing pattern of arms sales to rogue states and no known commitment by Nazarbayev to end them. He needs to make such a commitment, and now!

Finally, It has come to my attention that on September 14, 2001 the Swiss Federal Department of Justice made available to the U.S. Department of Justice the findings of a lengthy investigation of corruption involving President Nursultan Nazarbayev of Kazakhstan, a former director of Mobil Oil, Mr. J. Bryan Williams, and a senior official of the Geneva-based bank Credit Agricole Indosuez. According to Swiss press reports, the Swiss investigation into money laundering and other corrupt activities has established the existence of a bribery chain set up in the 1990's by James Giffen, a U.S. businessman who reportedly acted as a mediator between several oil companies and officials of the government of Kazakhstan, including President Nazarbayev. The U.S. Department of Justice has been investigating Giffen's activities since last year.

I would thus urge President Bush not to host someone whose regime has been condemned by leading human rights organizations, has trafficked in arms with rogue states, has been ambiguous in its support of the war on terrorism, and is under investigation by both Swiss and U.S. law enforcement agencies. Further, a priority objective of U.S. policy should be to insist that Mr. Nazarbayev clean up his act.

LET PRIVATEERS TROLL FOR BIN LADEN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. PAUL. Mr. Speaker, I recommend my colleagues read the attached article ''Let Privateers Troll for Bin Laden'' by Larry Sechrest, a research fellow at the Independent Institute in Oakland, California, and a professor of economics at Sul Ross State University. Professor Sechrest documents the role privateers played in the war against pirates who plagued America in the early days of the Republic. These privateers often operated with letters of marque and reprisal granted by the United States Congress.

Professor Sechrest points out that privateers could be an effective tool in the war against terrorism. Today's terrorists have much in common with the pirates of days gone by. Like the pirates of old, today's terrorists are private groups seeking to attack the United States government and threaten the lives, liberty, and property of United States citizens. The only difference is that while pirates sought financial gains, terrorists seek to advance ideological and political agendas through violence.

Like the pirates who once terrorized the high seas, terrorists today are also difficult to apprehend using traditional military means. We have seen that bombs and missiles can effectively and efficiently knock out the military capability, economy and technological infrastructure of an enemy nation that harbors terrorists. However, recent events also seem to suggest that traditional military force is not as effective in bringing lawless terrorists to justice.

When a terrorist stronghold has been destroyed by military power, terrorists simply may move to another base before military forces locate them. It is for these reasons that I believe the drafters of the Constitution would counsel in favor of issuing letters of marque and reprisal against the terrorists responsible for the September 11 attacks.

Secretary of Defense Rumsfeld recently acknowledged the role that private parties, when provided sufficient incentives by government, can play in bringing terrorists to justice. Now is the time for Congress to ensure President Bush can take advantage of every effective and constitutional means of fighting the war on terrorism. This is why I have introduced the Air Piracy Reprisal and Capture Act of 2001 (HR 3074) and the September 11 Marque and Reprisal Act of 2001 (HR 3076). The Air Piracy Reprisal and Capture Act of 2001 updates the federal definition of ''piracy'' to include acts committed in the skies. The September 11 Marque and Reprisal Act of 2001 provides Congressional authorization for the President to issue letters of marque and reprisal to appropriate parties to seize the person and property of Osama bin Laden and any other individuals responsible for the terrorist attacks of September 11. I encourage my colleagues to read Professor Sechrest's article on the effectiveness of privateers, and to help ensure President Bush can take advantage of every available tool to capture and punish terrorists by cosponsoring my Air Piracy Reprisal and Capture Act and the September 11 Marque and Reprisal Act.

LET PRIVATEERS TROLL FOR BIN LADEN

(by Larry J. Sechrest)

In the wake of the Sept. 11th attacks, a group of American businessmen has decided to enlist the profit motive to bring the perpetrators to justice. Headed by Edward Lozzi of Beverly Hills, California, the group intends to offer a bounty of $1 billion—that's billion with a ''b''—to any private citizens who will capture Osama bin Laden and his associates, dead or alive.

Paying private citizens to achieve military objectives seems novel but is hardly untried. Recall Ross Perot's successful use of private forces to retrieve his employees from the clutches of fundamentalist Muslims in Iran in 1979.

We are all familiar with bail bondsmen, who employ bounty hunters to catch bail-jumping fugitives. Less familiar are two U.S. companies, Military Professional Resources Inc. and Vinnell Corporation, which provide military services to governments and other organizations worldwide.

Historically, private citizens arming private ships, appropriately called ''privateers,'' played an important role in the American Revolution. Eight hundred privateers aided the seceding colonists' cause, while the British employed 700, despite having a huge government navy.

During the War of 1812, 526 American vessels were commissioned as privateers. This was not piracy, because the privateers were licensed by their own governments and the ships were bonded to ensure that their captains followed the accepted laws of the sea, including the humane treatment of those who were taken prisoner. Congress granted privateers ''letters of marque and reprisal,'' under the authority of Article I, Section 8 of the U.S. Constitution.

Originally, privateering was a method of restitution for merchants or shipowners who had been wronged by a citizen of a foreign country. Privateers captured the ships flying the flag of the wrongdoers' nation and sailed them to a friendly port, where a neutral admiralty court decided whether the seizure was just. Wrongful seizures resulted in the forfeiture of the privateers' bond to the owners of the seized ship.

If the seizure was, just, the ship and cargo were sold at auction, with the bulk of the proceeds going to the privateer's owners and crew. The crews were volunteers who shared in the profits, and the investors viewed the venture as remunerative—albeit risky,

Privateering soon evolved into a potent means of warfare. Self-interest encouraged privateers to capture as many enemy ships as possible, and to do it quickly. Were privateers successful in inflicting serious losses on the enemy? Emphatically, yes. Between 1793 and 1797, the British lost 2,266 vessels, the majority taken by French privateers.

During the War of the League of Augsburg (1689–1697) French privateers captured 3,384 English or Dutch merchant ships and 162 warships, and during the War of 1812, 1,750 British ships were subdued or destroyed by American privateers. Those American privateers struck so much fear in Britain that Lloyd's of London ceased offering maritime insurance except at ruinously high premiums. No wonder Thomas Jefferson said, ''Every possible encouragement should be given to privateering in time of war.''

If privateering was so successful, why has it disappeared? Precisely because it worked so well. Government naval officers resented the competitive advantage privateers possessed, and powerful nations with large government navies did not want to be challenged on the seas by smaller nations that opted for the less-costly alternative—private ships of war.

In sum, the armed forces of the U.S. government are not the only option for President Bush to defeat bin Laden, his al Qaeda network, and ''every terrorist group with a global reach.'' The U.S. military is not necessarily even the best option.

Let's bring back the spirit of the privateers. By letting profits and justice once more go hand-in-hand, victims and their champions can have an abundance of both, rather than a paucity of either.

IN REMEMBRANCE OF NANCY FORD

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. DAVIS of Florida. Mr. Speaker, I rise in remembrance of Nancy Ford, a Tampa businesswoman whose legacy in promoting women's rights, supporting the arts and bringing our Tampa Bay community together will not soon be forgotten by the countless friends, family and admirers she has left behind.

Nancy's contributions to Tampa Bay women are immeasurable. After breaking through the glass ceiling herself, Nancy helped pave the way for other women. She helped start the Tower Club, Tampa's first private business group to admit women, and she founded the Athena Society and the Florida Women's Network-professional women's networking and leadership organizations.

Nancy's accomplishments do not end there. As Chairwoman of the Florida Gulf Symphony's board of directors, member of the Arts Council of Hillsborough County and head of the committee that negotiated a merger of the Tampa Philharmonic and the St. Petersburg Symphony, Nancy Ford played a pivotal role in shaping the development of Tampa's art society.

Nancy's devotion to her causes has left an indelible mark on Tampa Bay. Through her countless volunteer hours for local charities, her work with University of South Florida's Medical Center and her role as co-founder of the Children's Cancer Center, Nancy made a difference in our community. Nancy Ford's vision and wisdom inspire us not just to do great things but also to develop lasting institutions that will carry on her ideas and work for generations to come.

On behalf of the people of Tampa Bay, I would like to extend my heartfelt sympathies to Nancy's family.

TRIBUTE TO FERNANDO FERRER

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a great leader and political figure. Bronx Borough President Fernando Ferrer has dedicated his life to serving the community and has been recognized nationally for revitalizing the Bronx.

I have known Mr. Ferrer, or Freddy as I know him, for 30 years and have been continuously impressed by his vigor and political expertise. Freddy was elected to his first term as borough president in 1987 with an overwhelming 87 percent of the public vote. To illustrate Freddy's outstanding leadership and how much Bronxites trust him, ten years and three terms later, he was reelected yet again with 87 percent of the public vote.

Mr. Speaker, it has been a pleasure to work with Freddy Ferrer throughout the years to continue and intensify the restoration of the Bronx. From the moment he took office, Freddy began implementing a new, higher set of standards by which to run the borough. These changes, such as his strict code of ethics for his staff, have made it easier to make necessary changes throughout the Bronx.

Among Freddy's long list of accomplishments, he led the Bronx to winning the prestigious National Civic League's All-American City Award in 1997 and the Crown Community Award presented by American City and County magazine in 1999. The New York State Department of Health statistics show that between 1995 and 1999, 4,110 fewer individuals were unemployed. During that period, the number of AIDS cases in the Bronx dropped by nearly 50%, and homicides decreased by roughly 23 percent. Since 1990, the Bronx has received 2.5 billion dollars worth of new construction. From new businesses to new housing developments, Bronx residents have been able to witness their community grow before their very eyes. Freddy orchestrated the nation's most comprehensive housing revival when nearly 64,000 new and rehabilitated residences became available in the Bronx. This surge of structural progress and the resurgence of local businesses have been pivotal in rejuvenating the spirit of the Bronx. Along with the legendary Yankee Stadium, which Freddy and myself strove to keep in the Bronx, our borough president has become an undeniable part of Bronx history.

Mr. Speaker, Freddy's roots are in the Bronx and he has not strayed from the borough. He was born there, attended primary and secondary school there, and attended the New York University at its Bronx campus. He and his distinguished wife, Aramina, raised their daughter, Carlina, in the Bronx as well. This fall, Freddy ran for New York City mayor, and in doing so, brought a new vision for all of our communities. Freddy's entire campaign, especially when he eloquently expressed his visions for the city in debates and speeches, made us all very proud.

I ask my colleagues to join me in honoring Mr. Fernando Ferrer for over 20 years of remarkable and innovative service to the people of the Bronx.

H.R. 3280, TO LOWER THE TIME OF CONTINUOUS ACTIVE DUTY REQUIRED TO RECEIVE LEVEL I BASIC ALLOWANCE OF HOUSING

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mrs. MINK of Hawaii. Mr. Speaker, over 57,000 members of the Reserves and National Guard have been called to active duty. Each week the military calls up more soldiers to help in our struggle against terrorism. They leave their civilian jobs and families to help defend our country.

From the day they begin their active duty, members of the National Guard and Reserves must deal with the difficult challenge of paying their bills and extra living expenses while serving their country.

To help ease this burden, soldiers placed on active duty are entitled to a Basic Allowance of Housing, which pays for their housing costs. Soldiers receive it when they do not live on a military base. The exact amount depends on grade, dependency status, and geographic location.

If members of the National Guard and Reserves serve less than 140 days, they receive Level II Basic Allowance of Housing. If they serve more than 140 days, they receive Level I Basic Allowance of Housing.

Level II Basic Allowance of Housing is similar to the Level I Basic Allowance of Housing, but it does not include adjustments for expensive housing markets, such as Honolulu or New York City.

This policy hurts soldiers placed on short tours of duty in expensive housing markets. For example, an 0–1 officer in Honolulu will receive $410.70 per month under Level II. Under Level I, that same soldier would receive $953.00.

The current law costs soldiers hundreds of dollars every month. Soldiers should not have to wait 140 days before receiving the Level I Basic Allowance of Housing.

On November 13, 2001, I introduced H.R. 3280 to correct this. It will reduce the number of active duty days required for the Level I Basic Allowance of Housing from 140 to 60 days.

We ask members of the National Guard and Reserves to serve without hesitation to defend our nation. We must ensure that all soldiers in the military are paid enough money to cover their housing costs.

I urge my colleagues to join with me and support H.R. 3280.

TRIBUTE TO CATHY MAGUIRE

HON. BRAD SHERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. ADAM B. SCHIFF

OF CALIFORNIA

HON. ELTON GALLEGLY

OF CALIFORNIA

HON. XAVIER BECERRA

OF CALIFORNIA

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. SHERMAN. Mr. Speaker, we rise today to pay tribute to Cathy Maguire as she completes her tenure as Chairman of the Valley Industry and Commerce Association (VICA).

Fifty-two years ago, when VICA was founded, the San Fernardo Valley was a predominantly rural and agricultural area north of Los Angeles; today, the Valley is a vital part of our nation's second-largest metropolitan area—thanks in part to the leadership of VICA.

Since Cathy Maguire was elected Chairman of VICA in 1999, the Valley business community has benefitted from having a tenacious, committed and vocal advocate with representation at all levels of government from L.A. City Hall to Capitol Hill.

Cathy Maguire has led two delegations of business leaders to our nation's capitol to meet with United States Senators, Members of Congress, Cabinet Secretaries and senior staff of both the Clintons and Bush Administrations.

VICA has taken a leadership role on Social Security reform, small business development, aviation and airports, water quality and reliability, a patient's bill of rights and telecommunications issues under the keen leadership of Cathy Maguire.

As California faced an energy crisis this year, VICA played an important role in discussing solutions with the Administration as well as with our colleagues in Congress—working to ensure that California had reliable, affordable supplies of energy.

And while our nation mourned the losses of September 11, 2001, VICA and its Chairman have worked to minimize the impacts on Southern California's economy, convening the region's first Economic Impacts Summit and advocating in Washington on behalf of an economic stimulus for local businesses impacted by the tragic events.

Mr. Speaker and distinguished colleagues, please join us in honoring Cathy Maguire for her leadership and accomplishments as Chairman of the Valley Industry and Commerce Association.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. BECERRA. Mr. Speaker, on Friday, November 30, 2001, I was unable to cast my floor vote on roll call number 465, on Agreeing to the Conference Report for H.R. 2299, Transportation and Related Agencies Appropriations for FY 2002.

Had I been present for the vote, I would have voted "aye" on roll call vote 465.

A PROCLAMATION RECOGNIZING DAVID PEOPLES

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Mr. NEY. Mr. Speaker, Whereas, David Peoples serves as a Police Officer in the state of Ohio; and

Whereas, Mr. Peoples has been named "Police Officer of the Month" by the National Law Enforcer's Memorial Fund for his unmatched service to his community; and;

Whereas, Mr. Peoples is helpful, honest, active, hardworking and dedicated to both his department and law enforcement; and,

Whereas, Mr. Peoples has received the "Exceptional Service Medal," the "Life Saving Medal" and the "Silver Torch" for his efforts in saving and protecting the citizens of Ohio;

Therefore, I ask that my colleagues join me in recognizing David Peoples for his commitment and dedication to making lives better in our area. I am honored to call him a constituent.

HOMELAND EMERGENCY RESPONSE OPERATIONS (HERO) ACT

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 2001

Ms. HARMAN. Mr. Speaker, five years ago, Tim Grimmond, the Police Chief of El Segundo, a small town in my district, came to me with a little problem called "public safety radio interoperability."

Basically, he explained, police departments are organized by city and county jurisdictions. Criminals are not.

And the radios carried by the police in El Segundo were not always compatible with the radios carried by the L.A. Country sheriffs or police departments in neighboring towns like Redondo and Manhattan Beach.

As a result, law enforcement agencies pursuing a suspect couldn't talk to each other on the radio. They sometimes resorted to hand signals out car windows to communicate. Or they used a jerry-rigged system of radio-patching and multiple radios to make it work.

The problem was not with the equipment. The problem was the shortage of spectrum—the airwaves used for radio and TV.

Police and fire departments had not been allocated enough of the spectrum for their radios to be interoperable.

In response to Chief Grimmond's concerns, I introduced legislation that directed the FCC to license unused frequencies to public safety agencies. This bill became law.

The same year, Congress took another major step towards interoperability. It directed the FCC to allocate to public safety users 24 megahertz of spectrum licensed to analog television stations. Congress set a deadline of 2006 for that transition.

Unfortunately, that law also left a big loophole. It said the TV stations don't have to move to new spectrum until 85 percent of the household have a TV that can receive digital TV signals.

Currently, only 1 percent of homes in the U.S. meet that criteria.

So unless we act now, public safety agencies will *never* be able to use the spectrum that Congress promised them back in 1997.

That means * * * fire departments will continue to have problems talking at the scenes of major fires. Police and sheriff's departments chasing a suspect across city and county jurisdictions will still not be able to communicate by radio. Police officers on the beat will still worry about hitting a "dead spot" where their radios don't work because of interference or poor signal penetration.

The HERO Act that I and my colleagues, Rep. WELDON of PA, Mr. GILMAN, Mr. MORAN of VA, Mr. MCINTYRE, BALLENGER, and Mr. FRELINGHUYSEN are introducing here today eliminates that 85 percent threshold requirement—but only for channels 63, 64, 68 and 69, which the FCC allocated to public safety at Congress' direction in 1997.

Our bill directs the FCC to assign the frequencies Congress promised to public safety agencies *by the end of 2006.*

This legislation is supported virtually every public safety and municipal organization, including * * *.

The International Association of Fire Chiefs, the International Association of Fire Fighters, and the Congressional Fire Services Institute; the International Association of Chiefs of Police and the Major County Sheriff's Association; the National League of Cities, the National Governors' Association and the National Association of Counties; the Association of Public-Safety Communications Officials-International (APCO) and the International Association of Arson Investigators.

Attached to this statement are letters of support for the legislation.

They all agree: Public safety needs this spectrum. And Congress should keep its commitment.

CONGRESSIONAL FIRE SERVICES INSTITUTE,
Washington, DC, November 28, 2001.

Hon. JANE HARMAN,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSWOMAN HARMAN: As Chair of the Congressional Fire Services Institute's National Advisory Committee, I extend to you the support of the committee for the Homeland Emergency Response Operations Network Act.

Composed of 40 national fire and emergency services organizations, the NAC provides counsel to CFSI on public safety issues. Among the organizations that serve on this committee are the International Association of Arson Investigators, International Association of Fire Chiefs, International Association of Fire Fighters, International Fire Service Training Association, International Society of Fire Service Instructors, National Fire Protection Association, National Volunteer Fire Council, and the North American Fire Training Directors. These are the associations that represent the interest of our 1.2 million first responders.

Following the release of the Public Safety Wireless Advisory Committee report in 1996, CFSI has worked aggressively in support of the report's recommendations. First and foremost is the set aside of 24 megahertz of broadcast spectrum for public safety use. This spectrum will address an immediate need of public safety, clearing the way for interoperable wireless communication systems.

Following the terrorists attacks on September 11th, the need for this spectrum has become a top priority for public safety. We can no longer afford to run the risk of responding to large-scale disasters without interoperable communication systems. Otherwise, we will jeopardize the lives of all first responders at the scene. Congress needs to remove the 85 percent exemption on penetration of digital television receivers and any other exemptions, and hold firm on the previously set 2006 deadline in the best interest of public safety!

I look forward to working with you, Congressman Curt Weldon and all other federal legislators who will offer their support for this legislation.

Sincerely,

DENNIS COMPTON,
Chair, National Advisory Committee.

ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS INTERNATIONAL, INC.,
December 3, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HARMAN: On behalf of the Association of Public-Safety Communication Officials-International, Inc and its

15,000 members, I want to thank you for introducing legislation to address the serious radio spectrum issues facing our nation's police, fire, EMS, and other public safety agencies. Your proposed legislation would establish a firm date for clearing television broadcast stations from spectrum allocated for public safety radio systems pursuant to a 1997 Congressional mandate.

The tragic events of September 11, 2001, demonstrated yet again that public safety personal all too often lack access to sufficient radio spectrum to provide effective and interoperable communications when responding to emergencies. On a day-to-day basis, public safety personnel from different agencies and jurisdictions are often unable to communicate at emergency scenes, usually because spectrum shortages have forced them to operate their radio systems over different, incompatible frequency bands. In many metropolitan areas, public safety personnel also confront dangerous radio frequency congestion, again due to the inadequacy of public safety spectrum allocations.

These problems, and proposed solutions, were documented by the Public Safety Wireless Advisory Committee (PSWAC) in a report dated September 11, 1996. Among PSWAC's recommendations was that approximately 25 MHz of new radio spectrum be made available for public safety within five years. Congress required such an allocation in the Balanced Budget Act of 1997, and the FCC responded with a specific spectrum allocation in 1998. However, when terrorists attacked the World Trade Center and the Pentagon exactly five years after the PSWAC report, public safety personnel responding to those horrific events were still unable to use the newly allocated spectrum. The difficulty is that the spectrum remains blocked by ongoing television broadcast operations in much of the nation (including New York and Washington).

The legislation that you are offering will establish a firm date for television stations to vacate spectrum already allocated for public safety. If adopted, the legislation will open the door for state and local governments to plan, fund, and even construct the new radio systems they need, confident that the necessary radio spectrum will be available for use on a specific date. We hope that your colleagues in Congress will give this matter immediate and favorable consideration.

Sincerely,

GLEN NASH,
President.

MAJOR COUNTY SHERIFFS' ASSOCIATION,
Minneapolis, MN, December 3, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN HARMAN: The members of the Major County Sheriffs' Association and other public safety organizations in the United States continue to be in urgent need of additional radio spectrum to safely perform their mission critical duties.

In response to that need, in 1997 the Congress directed the FCC to make 24 MHz of spectrum (currently TV Channels 63, 64, 68, 69) available for use by public safety. Unfortunately the legislation was linked to transition of TV stations in those channels from analog to digital signals and there is no date-certain deadline by which public safety will be able to use this spectrum.

We are in support of legislation to be known as ''THE HOMELAND AND EMERGENCY RESPONSE OPERATIONS (H.E.R.O.) ACT'' that would require current TV Broadcast Incumbents on those channels to vacate that spectrum for use by public safety no later than December 31, 2006.

We appreciate the efforts of you and your colleagues in Congress who will be introducing this legislation that is so urgently needed by law enforcement agencies throughout the United States.

Respectfully,

S/PATRICK D. MCGOWAN,
President.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,
Alexandria, VA, December 3, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE HARMAN: On behalf of the International Association of Chiefs of Police (IACP), I am writing to express our support for the Homeland and Emergency Response Operations (H.E.R.O) Act. As you know, the IACP is the world oldest and largest association of law enforcement executives with more than 18,000 members in 100 countries.

As you are aware, law enforcement and other public safety organizations in the United States are in critical need of additional radio spectrum to safely perform their mission critical duties. In response to that need, in 1997 Congress directed the Federal Communications Commission (FCC) to make 24 MHz of spectrum (currently used by television channels 63, 64, 68, 69) available for use by public safety. Unfortunately, the legislation was linked to the transition of television stations on those channels from analog to digital signal and there is no specific deadline by which this spectrum will be available for public safety use.

The public safety community, including the IACP, has repeatedly called on the FCC to assign this much needed spectrum to public safety in order to achieve critical interoperability in communications between agencies. For example, the agencies that responded to the terrorist attack on the Pentagon were unable to communicate with each other because they lacked the required spectrum for interoperable radio communications. Consequently, the IACP strongly supports the H.E.R.O. Act, which would require current television stations using those channels to vacate the spectrum for use by public safety no later than December 31, 2006.

We appreciate the efforts of you and your colleagues in Congress who will be introducing this legislation that is so urgently needed by law enforcement agencies throughout the United States.

Sincerely,

WILLIAM B. BERGER,
President.

INTERNATIONAL ASSOCIATION OF FIRE CHIEFS,
Fairfax, VA, November 30, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HARMAN: The International Association of Fire Chiefs and, indeed, America's fire and emergency service, fully supports the Homeland Emergency Response Operations (HERO) Act to provide for the expected and increased assignment of spectrum for public safety.

In 1996 the Public Safety Wireless Advisory Committee reported to Congress on the needs for additional spectrum for public safety. In 1997 Congress responded to one of the recommendations by mandating that the Federal Communications Commission (FCC) allocate 24 MHz of spectrum for the exclusive use of public safety from the 700 MHz band occupied by television channels 60–69. The FCC complied; channels 63, 64, 68 and 69 have been reserved for use by public safety agencies. The FCC has promulgated rules for the 700 MHz public safety band which, when implemented, will provide much needed additional spectrum for both voice and data communication, and improve interoperability among 700 MHz band users.

These very positive developments are contingent on television stations vacating this spectrum by 2006—a provision in the 1997 Balanced Budget Act. The major barrier is a provision in that same law that allows stations to keep their analog channels beyond 2006 until at least 85% of the households in the relevant market have access to digital television signals. The problem, in short, is that there is no time certain for clearing the band for public safety. Neither public safety agencies nor radio equipment manufacturers can proceed until there is certainty. The benefits of this new spectrum will not be available to public safety until this current uncertainty is rectified.

The HERO Act addresses the issue of band clearing by providing a date certain that this spectrum will be available for public safety. This is consistent with the original intent of Congress to provide public safety with the key element of command and control—communications. Enhanced communications capability will clearly enable America's fire and emergency service to better deal with large scale incidents, natural disasters and acts of terrorism.

Very truly yours,

CHIEF JOHN M. BUCKMAN,
President.

NATIONAL ASSOCIATION OF COUNTIES,
December 3, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Cannon House Office Bldg., Washington, DC.

DEAR REPRESENTATIVE HARMAN: On behalf of the National Association of Counties (NACo), I would like to commend you, and Representative Curt Weldon, for developing the, ''Homeland Emergency Response Operations (HERO) Act.''

The HERO Act is fully consistent with NACo's policy on releasing the 700 MHz band for public safety purposes, which reads as follows:

''Improve Public Safety and Emergency Management Communications: Increase interoperability for both voice and data, release additional spectrum in the 700 MHz band for public safety and emergency management use, and eliminate interference problems in public safety communications.''

NACo believes it is critical that the 700 MHz band be made available at a date certain. This would facilitate counties making appropriate plans for utilization of the spectrum, develop solutions to the interoperability challenges for both voice and data, and allow the private sector to provide the technologies and equipment necessary to make for efficient utilization of the spectrum.

Clearly the events of September 11th bring into focus the important role interoperability has in disaster response and making this spectrum available will enhance our ability to carry out our role as ''first responders''.

Thank you for your leadership.

Sincerely,

JAVIER GONZALES,
President,
National Association of Counties
Commissioner, Santa Fe, NM.

INTERNATIONAL ASSOCIATION OF ARSON INVESTIGATORS, INC.,
St. Louis, MO, November 30, 2001.

Hon. JANE HARMAN,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSWOMAN HARMAN: The International Association of Arson Investigators is pleased to endorse the ''Homeland Emergency Response Operations Network Act''.

This vital legislation is long overdue. Expedited assignment of the 761–776 and 794–806 megahertz to public safety use will provide much needed additional radio spectrum for America's emergency responders.

As one of the nation's major fire service groups we look forward to standing with you at next week's press conference. Following introduction we would be honored to work to seek passage of this important measure.

Sincerely,

STEPHEN P. AUSTIN,
Director of Governmental Relations.