HOUSE OF REPRESENTATIVES—*Thursday, June 28, 2001*

The House met at 9 a.m.

The Reverend Byron E. Powers, Senior Pastor, The Church Love is Building, Church of God, Sheffield, Ohio, offered the following prayer:

So we pray. Almighty and Gracious God, Your Word declares that ''this is the day that the Lord has made.'' We recognize this day that You have given us, these great United States, for our heritage. Help us to treasure and guard it. Help us, this day, always to prove ourselves to be cognizant of Your favor and eager to fulfill Your awesome purpose in this world. Forgive us for our sin, the discord, confusion, pride, and arrogance, that hinders our relationship with You and one another.

In our diversity, mold us into one united people. Empower our leaders this day with the spirit of wisdom, so that righteousness, justice, and peace may prevail and that, through obedience to Your commandments, we may show forth Your praise among the nations of the Earth.

So, Heavenly Father, we ask this day that our Nation and leaders will be blessed; that our influence will be enlarged; that Your hand would be upon us, and keep us from evil that we may not cause pain. We pray this in Your Name that is above all others. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. HALL) come forward and lead the House in the Pledge of Allegiance.

Mr. HALL of Texas led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The gentleman from Ohio (Mr. NEY) is recognized for 1 minute. All other 1-minutes will be after business today.

WELCOME TO GUEST CHAPLAIN, THE REVEREND BYRON E. POWERS

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

Mr. NEY. Mr. Speaker, it is my privilege to welcome the Honorable Reverend Byron E. Powers as our guest chaplain. Reverend Powers is currently the Senior Pastor of the Church Love Is Building in Sheffield, Ohio, one of the great parishes in the region.

Reverend Powers has devoted his life to helping others, and previously served as the senior pastor for churches in Illinois and Florida. He has earned a Bachelor of Arts in Psychology from Lee University and a Master of Arts in Clinical Pastoral Counseling from Ashland Theological Seminary. In addition to his pastoral responsibilities, he currently serves as senior chaplain to the Lorain Police Department. He has been married for 19 years to his wife Frankie, and they have three wonderful children, Sarah, Rachel and Nathan.

Reverend Powers is a leader in the community. His commitment and compassion for those less fortunate has led him to assist many in the area around Sheffield while working tirelessly to serve his community and the great State of Ohio.

It is my distinct pleasure to welcome Reverend Powers to the Congress of the United States and thank him for leading the House in prayer.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002

The SPEAKER. Pursuant to House Resolution 180 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2311.

□ 0906

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Wednesday, June 27, 2001, a demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. BONIOR) had been postponed and the bill was open for amendment from page 22, line 19, through page 23, line 4.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment offered by the gentleman from Colorado (Mr. TANCREDO); amendment No. 4 offered by the gentleman from Colorado (Mr. TANCREDO); amendment offered by the gentleman from New York (Mr. HINCHEY); amendment No. 2 offered by the gentleman from Ohio (Mr. KUCINICH); and amendment offered by the gentleman from Michigan (Mr. BONIOR).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. TANCREDO

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TANCREDO:

Page 2, line 18, after the dollar amount, insert the following: ''(reduced by $9,900,000)''.

Page 18, line 2, after the dollar amount, insert the following: ''(increased by $9,900,000)''.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 39, noes 372, not voting 22, as follows:

[Roll No. 199]

AYES—39

Bartlett	Hinchey	Rivers
Biggert	Holt	Royce
Boswell	Luther	Schaffer
Cannon	McCollum	Sensenbrenner
Davis, Jo Ann	McKinney	Shadegg
DeGette	Moran (KS)	Shays
Doggett	Osborne	Smith (MI)
Ehlers	Paul	Sununu
Flake	Pence	Tancredo
Gilchrest	Pickering	Terry
Goode	Pitts	Toomey
Gutknecht	Radanovich	Udall (CO)
Hefley	Ramstad	Udall (NM)

NOES—372

Abercrombie	Bachus	Barrett
Ackerman	Baird	Bass
Aderholt	Baker	Becerra
Akin	Baldacci	Bentsen
Allen	Baldwin	Bereuter
Andrews	Ballenger	Berkley
Armey	Barcia	Berman
Baca	Barr	Berry

Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Callahan
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
Deal
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schakowsky
Schiff
Schrock
Scott
Sessions
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Traficant
Turner
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 (FL)

NOT VOTING—22

Barton
Bonilla
Burton
Buyer
Clayton
Dooley
Ehrlich
Greenwood
Grucci
Harman
Hyde
Leach
Mica
Moran (VA)
Owens
Platts
Putnam
Serrano
Smith (TX)
Thomas
Waxman
Young (AK)

□ 0934

Messrs. LAMPSON, LARSEN of Washington, BLAGOJEVICH, LARGENT, DAVIS of Illinois, and MALONEY of Connecticut changed their vote from ''aye'' to ''no.''

Mr. PICKERING and Ms. McCOLLUM changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. GRUCCI. Mr. Chairman, on rollcall vote No. 199, I was detained in traffic and was unable to make it to the floor to vote on the Tancredo amendment increasing funding for the Department of Energy's Renewable Energy Research Program, while offsetting the Army Corps of Engineers General Investigations Account. Had I been present, I would have voted in the negative.

Mr. MICA. Mr. Chairman, on rollcall No. 199, I was unavoidably detained. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 4 OFFERED BY MR. TANCREDO

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. TANCREDO:

In title I, strike section 105 (relating to shore protection projects cost sharing).

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 84, noes 333, not voting 16, as follows:

[Roll No. 200]

AYES—84

Baldwin
Barr
Bartlett
Bass
Bereuter
Blumenauer
Bryant
Cannon
Chabot
Clay
Cubin
DeFazio
DeGette
DeLay
Doggett
Eshoo
Farr
Flake
Foley
Frank
Gibbons
Gilchrest
Goode
Goodlatte
Graves
Hayworth
Hefley
Hill
Hooley
Hostettler
Inslee
Johnson (CT)
Johnson (IL)
Kelly
Kerns
Kildee
Kind (WI)
Kolbe
Largent
Larsen (WA)
Lee
Lofgren
Luther
Maloney (CT)
Matheson
McCollum
McGovern
McKinney
Meehan
Miller, Gary
Miller, George
Moore
Moran (KS)
Neal
Otter
Paul
Pence
Peterson (MN)
Petri
Pitts
Ramstad
Rivers
Sabo
Sanchez
Schaffer
Sensenbrenner
Shadegg
Shays
Sherman
Smith (MI)
Smith (WA)
Snyder
Solis
Stark
Sununu
Tancredo
Terry
Tiahrt
Tiberi
Toomey
Udall (CO)
Udall (NM)
Upton
Waters

NOES—333

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Callahan
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chambliss
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
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Evans
Everett
Fattah
Ferguson
Filner
Fletcher
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gillmor
Gilman
Gonzalez
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Herger
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Israel
Issa
Istook
Jackson (IL)

Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kennedy (RI)
Kilpatrick
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Mink
Mollohan
Morella
Murtha
Myrick
Nadler
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Phelps
Pickering
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shaw
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tierney
Towns
Traficant
Turner
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—16

Barton
Burton
Buyer
Dooley
Ehrlich
Greenwood
Leach
Moran (VA)
Owens
Platts
Putnam
Radanovich
Ryun (KS)
Smith (TX)
Thomas
Young (AK)

□ 0944

Mr. CAMP and Mr. ROHRABACHER changed their vote from ''aye'' to ''no.''

Mr. SHERMAN changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HINCHEY

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. HINCHEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HINCHEY:

In title III, in the item relating to ''DEPARTMENT OF ENERGY PROGRAMS; ENERGY SUPPLY'' after the aggregate dollar amount, insert the following: ''(increased by $50,000,000)''.

In title III, in the item relating to ''ATOMIC ENERGY DEFENSE ACTIVITIES NATIONAL NUCLEAR SECURITY ADMINISTRATION; WEAPONS ACTIVITIES'' after the aggregate dollar amount, insert the following: ''(reduced by $60,000,000)''.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 163, noes 258, not voting 12, as follows:

[Roll No. 201]

AYES—163

Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bass
Becerra
Berkley
Berman
Blumenauer
Boehlert
Bonior
Boswell
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
Deutsch
Doggett
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Frank
Frost
Gephardt
Gonzalez
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
LoBiondo
Lofgren
Lowey
Luther
Maloney (NY)
Markey
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Petri
Price (NC)
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (MI)
Smith (WA)
Solis
Stark
Strickland
Stupak
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOES—258

Abercrombie
Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Bentsen
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehner
Bonilla
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (SC)
Bryant
Burr
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Etheridge
Everett
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Largent
Latham
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Scarborough
Schiff
Schrock
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (NJ)
Snyder
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Traficant
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NOT VOTING—12

Barton
Burton
Buyer
Dooley
Ehrlich
Leach
Platts
Putnam
Radanovich
Smith (TX)
Thomas
Young (AK)

□ 0952

Mr. PASTOR changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. KUCINICH

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 2 offered by

the gentleman from Ohio (Mr. KUCINICH), on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. KUCINICH:

In title III, in the item relating to ''WEAPONS ACTIVITIES,'' after aggregate dollar amount, insert the following; ''(reduced by $112,500,000)''.

In title III, in the item relating to ''DEFENSE NUCLEAR NONPROLIFERATIONS'', after the aggregate dollar amount, insert the following: ''(increased by $66,000,000)''.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 91, noes 331, not voting 11, as follows:

[Roll No. 202]

AYES—91

Allen
Andrews
Baird
Baldacci
Baldwin
Barrett
Blumenauer
Bonior
Brown (OH)
Carson (IN)
Clay
Conyers
Cummings
Davis (IL)
DeFazio
DeGette
Deutsch
Doggett
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Frank
Hilliard
Hinchey
Honda
Hooley
Jackson (IL)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kind (WI)
Kleczka
Kucinich
LaFalce
Lantos
Lee
Levin
LoBiondo
Luther
Maloney (NY)
Markey
McCarthy (MO)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Miller, George
Mink
Moore
Moran (VA)
Nadler
Neal
Ney
Oberstar
Obey
Olver
Owens
Pallone
Paul
Payne
Pelosi
Rahall
Rangel
Rivers
Rothman
Rush
Ryan (WI)
Sabo
Sanders
Sawyer
Schakowsky
Serrano
Smith (NJ)
Smith (WA)
Stark
Strickland
Tiberi
Tierney
Toomey
Udall (CO)
Velázquez
Waters
Weiner
Woolsey
Wu

NOES—331

Abercrombie
Ackerman
Aderholt
Akin
Armey
Baca
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Everett
Flake
Fletcher
Foley
Forbes
Ford
Fossella
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
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kilpatrick
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Napolitano
Nethercutt
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Roukema
Roybal-Allard
Royce
Ryun (KS)
Sanchez
Sandlin
Saxton
Scarborough
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Snyder
Solis
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Udall (NM)
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Wynn
Young (FL)

NOT VOTING—11

Barton
Burton
Ehrlich
Leach
Platts
Putnam
Radanovich
Ros-Lehtinen
Smith (TX)
Thomas
Young (AK)

□ 1001

Mrs. KELLY changed her vote from ''aye'' to ''no.''

Mr. KIND and Mr. FRANK changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. EHRLICH. Mr. Chairman, on rollcall Nos. 199, 200, 201, and 202, I was unable to vote. Had I been present, I would have voted "no" on all four.

AMENDMENT OFFERED BY MR. BONIOR

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. BONIOR), on which further proceedings were postponed, and which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BONIOR:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . No funds provided in this Act may be expended to issue any permit or other authorization under section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 403), or to issue any other lease, license, permit, approval, or right-of-way, for any drilling to extract or explore for oil or gas from the land beneath the water in any of Lake Huron, Lake Ontario, Lake Michigan, Lake Erie, Lake Superior, Lake Saint Clair, the Saint Mary's River, the Saint Clair River, the Detroit River, the Niagara River, or the Saint Lawrence River from Lake Ontario to the 45th parallel of latitude.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 265, noes 157, not voting 11, as follows:

[Roll No. 203]

AYES—265

Abercrombie
Ackerman
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Camp
Capito
Capps
Capuano
Cardin
Carson (IN)
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Ford
Fossella
Frank
Frost
Ganske
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Green (WI)
Greenwood
Gutierrez

Gutknecht
Hall (OH)
Harman
Hastings (FL)
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hutchinson
Hyde
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kucinich
LaFalce
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Pomeroy
Portman
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sawyer
Scarborough
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Snyder
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Wilson
Woolsey
Wu
Wynn
Young (FL)

NOES—157

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bass
Bentsen
Bereuter
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Burr
Buyer
Callahan
Calvert
Cannon
Cantor
Carson (OK)
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Deal
DeLay
DeMint
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
Everett
Flake
Forbes
Frelinghuysen
Gallegly
Gekas
Gibbons
Goode
Goodlatte
Graham
Granger
Graves
Green (TX)
Grucci
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Horn
Hostettler
Houghton
Hulshof
Hunter
Issa
Istook
Jefferson
Jenkins
John
Johnson, Sam
Keller
Kerns
King (NY)
Kingston
Knollenberg
Kolbe
Lampson
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
McCrery
McKeon
Mica
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Northup
Norwood
Osborne
Otter
Oxley
Paul
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Pryce (OH)
Rehberg
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sessions
Shadegg
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Smith (MI)
Smith (WA)
Souder
Spence
Stenholm
Stump
Sununu
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Vitter
Walden
Watkins (OK)
Watts (OK)
Weldon (PA)
Whitfield
Wicker
Wolf

NOT VOTING—11

Barton
Burton
Fletcher
Leach
Platts
Putnam
Radanovich
Ros-Lehtinen
Smith (TX)
Thomas
Young (AK)

□ 1010

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, no further amendments to the bill shall be in order except the following amendments, which may be offered only by the Member designated in the request, or a designee, shall be considered as read, shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question:

The amendment by the gentleman from Ohio, Mr. TRAFICANT, regarding drilling, for 20 minutes;

The amendment by the gentlewoman from Nevada, Ms. BERKLEY, regarding nuclear waste, for 20 minutes;

The amendment by the gentleman from Ohio, Mr. TRAFICANT, regarding Buy American, for 10 minutes;

The amendment by the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON, regarding bio/environmental research, for 10 minutes;

The amendment by the gentlewoman from New York, Mrs. KELLY, regarding the Nuclear Regulatory Commission Inspector General salaries and expenses, for 10 minutes; and

The amendment by the gentleman from Florida, Mr. DAVIS, regarding the Gulf Stream natural gas pipeline, for 60 minutes.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 39, line 18, be considered as read, printed in the RECORD, and open to amendment at any time.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. VISCLOSKY. Mr. Chairman, reserving the right to object, my understanding is that will still limit the universe to those amendments announced by the chairman, with the same time limits. It will not open it up to any new amendments.

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

Mr. VISCLOSKY. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, the gentleman is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The text of the remainder of the bill through page 39, line 18, is as follows:

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $845,341,000, to remain available until expended.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, $688,045,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator of the National Nuclear Security Administration, including official reception and representation expenses (not to exceed $12,000), $10,000,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 30 passenger motor vehicles, of which 27 shall be for replacement only, $5,174,539,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, $1,092,878,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), $143,208,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $487,464,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $310,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $1,500.

During fiscal year 2002, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $4,891,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, up to $8,000,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $28,038,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $5,200,000 in reimbursements, to remain available until expended: *Provided*, That up to $1,512,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $172,165,000, to remain available until expended, of which $166,651,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, $1,227,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That up to $152,624,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $2,663,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $181,155,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $181,155,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2002 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation from the General Fund estimated at not more than $0: *Provided further*, That none of the funds made available to the Federal Energy Regulatory Commission in this or any other Act may be used to authorize construction of the Gulfstream Natural Gas Project.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. (a) None of the funds appropriated by this Act may be used to award a management and operating contract, or award a significant extension or expansion to an existing management and operating contract, unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the Subcommittees of the waiver and setting forth, in specificity, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

SEC. 302. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy,

under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h).

SEC. 303. None of the funds appropriated by this Act may be used to augment the $21,900,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request subject to approval by the appropriate Congressional committees.

SEC. 304. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 306. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 307. None of the funds appropriated in other than Energy and Water Development Appropriations Acts may be used for Department of Energy laboratory directed research and development (LDRD).

SEC. 308. Not later than March 31, 2002, the Secretary of Energy, after consultation with the Nuclear Regulatory Commission and the Occupational Safety and Health Administration, shall transmit to the Committee on Appropriations, the Committee on Energy and Commerce, and the Committee on Education and the Workforce of the House of Representatives, and to the Committee on Appropriations, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report containing an implementation plan for the transfer, on October 1, 2002—

(1) from the Department of Energy to the Nuclear Regulatory Commission of regulatory authority over nuclear safety at the Department of Energy's science laboratories; and

(2) from the Department of Energy to the Occupational Safety and Health Administration of regulatory authority over worker safety at such laboratories.

Out of funds appropriated by this Act for Environment, Safety, and Health, the Secretary of Energy shall transfer $4,000,000 to

the Nuclear Regulatory Commission and $120,000 to the Occupational Safety and Health Administration. For purposes of this section, the Department of Energy's science laboratories are the Argonne National Laboratory, the Brookhaven National Laboratory, the Lawrence Berkeley National Laboratory, the Oak Ridge National Laboratory, the Pacific Northwest National Laboratory, the Ames Laboratory, the Fermi National Accelerator Laboratory, the Princeton Plasma Physics Laboratory, the Stanford Linear Accelerator Center, and the Thomas Jefferson National Accelerator Facility.

SEC. 309. When the Department of Energy makes a user facility available to universities and other potential users, or seeks input from universities and other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a university or other potential user in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a participant. For purposes of this section, the term ''user facility'' includes, but is not limited to: a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and any other Department facility designated by the Department as a user facility.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended notwithstanding section 405 of said Act, and, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $71,290,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $18,500,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $15,000), and purchase of promotional items for use in the recruitment of individuals for employment, $516,900,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $23,650,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $473,520,000 in fiscal year 2002 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at not more than $43,380,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,180,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at $5,933,000 in fiscal year 2002 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2002 so as to result in a final fiscal year 2002 appropriation estimated at not more than $247,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $3,100,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 503. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the ''Cleanup Program—Alternative Repayment Plan'' and the ''SJVDP—Alternative Repayment Plan'' described in the report entitled ''Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995'', prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

The CHAIRMAN. Are there any points of order to any of the sections so opened?

POINT OF ORDER

Mr. LARGENT. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LARGENT. Mr. Chairman, I make a point of order that section 308 of the bill, beginning on page 32, line 24, and ending on page 34, line 6, violates clause 2 of rule XXI of the rules of the House of Representatives prohibiting legislation on appropriations bills.

As I understand the intent of section 308, the language in question directs the Secretary of Energy to write a report to Congress on a plan to transfer certain regulatory functions in DOE science laboratories to the Nuclear Regulatory Commission and the Occupational Safety and Health Administration. My reading of the amendment, however, goes much further. I think that the language contained in the bill would actually effectuate the transfer of these functions to the NRC and OSHA.

In any event, Mr. Chairman, the language of section 308 clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the rules of the House because it changes current law, where no plan to transfer these functions is present.

I therefore insist on my point of order.

The CHAIRMAN. Does any other Member care to be heard on the point of order?

Hearing none, for the reasons stated by the gentleman from Oklahoma (Mr. LARGENT), the point of order is sustained, and section 308 of the bill will be stricken.

The CHAIRMAN. Are there amendments to the bill?

AMENDMENT NO. 1 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TRAFICANT:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds appropriated or otherwise made available in this Act may be made available to any person or entity convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentleman from Ohio (Mr. TRAFICANT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TRAFICANT).

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

Mr. Chairman, this is an amendment that has been offered and accepted on all appropriations bills. It is good for America.

I will yield to the distinguished chairman of the subcommittee, who has done a fine job on the bill, and would hope that he would also look favorably at my next amendment as well.

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

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, certainly this is something not only that we forgot to put in, which should have been put in, but we appreciate the gentleman bringing it to our attention and allowing us to be a part of his effort to continue to encourage companies to buy American.

We have no objection to this amendment and would happily accept it.

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

Mr. TRAFICANT. I yield to my good friend and classmate, the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Chairman, I appreciate the gentleman yielding.

On behalf of all the steelworkers I represent, I am also happy to accept the gentleman's amendment.

Mr. TRAFICANT. Mr. Chairman, I ask for an aye vote, and I yield back the balance of my time.

The CHAIRMAN. Does any Member claim time in opposition to the amendment?

Hearing none, the question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. TRAFICANT:

At the end of the bill (before the short title) add the following section:

SEC. . No fund in this Act may be used to drill for oil and gas, through, in or under, the Mosquito Creek Reservoir, Trumbull County, Ohio.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentleman from Ohio (Mr. TRAFICANT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TRAFICANT).

□ 1015

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

I want to give a little background on this amendment, and I want the appropriators to know that I have gone three times to the authorizing committee. This is the only drinking water supply for 125,000 of my constituents. The Senators, both Republicans, and every mayor supports stopping the banning of slant drilling under a lake when there are so many natural resources in that region.

Let me tell my colleagues about the hypocrisy. Our Department of Natural Resources will not allow any drilling on adjacent wetland in the Mesquito Reservoir because there are trumpet swans and Canadian geese habitat. I have 125,000 people that depend on this for drinking water with no backup water supply. And just on June 3, not counting last year, we had an earthquake of 3.0 in the district of the gentleman from Ohio (Mr. LATOURETTE), district to the north, not far from this lake.

Now, I have supported energy development. I have tried not to be hypocritical, because everybody says, not in my backyard. But when I believe that there are people, as we did in Florida, when there is fresh water, as we have done with the Great Lakes; God almighty, this is just common sense, and I did not have an amendment for this bill until I had seen the efforts made at the Great Lakes, and I worked 3 years through the authorizing committee.

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

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, the gentleman mentioned the word ''hypocrisy,'' and the gentleman knows how opposed I am to any form of hypocrisy. If indeed it is as the gentleman says that this could imperil the drinking water of the gentleman's constituents, we will have no part of that. We will be happy to accept the gentleman's amendment.

Mr. TRAFICANT. Mr. Chairman, I am very proud and honored that the gentleman has taken that position.

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

Mr. TRAFICANT. I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Chairman, I would also be happy to join with the Chair and announce my acceptance of the amendment from my distinguished classmate of the State of Ohio.

Mr. TRAFICANT. Mr. Chairman, I appreciate that.

In closing, I would just like to say that I will not call for a recorded vote, but I would like to see the eyes of the distinguished gentleman from Alabama (Mr. CALLAHAN), the powerful chairman, and I want a commitment, because I know the gentleman from Florida (Mr. YOUNG) has fought hard to preserve fresh water drinking supplies and people close to drilling. I am not going to ask for a vote, with an understanding that my language will be preserved and protected as best as possible in conference.

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

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, it will be preserved as best as possible.

Mr. TRAFICANT. Mr. Chairman, that is good enough for me. The gentleman's word has always been good enough. I thank the Congress for considering the people in my district.

Mr. Chairman, I ask for an ''aye'' vote.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MS. BERKLEY

Ms. BERKLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. BERKLEY:

Page 37, after line 11, insert the following:

TITLE IV–A

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For additional expenses of the Nuclear Waste Technical Review Board, to be derived from the Nuclear Waste Fund, for the Board (1) to evaluate the technical and scientific validity of activities undertaken by the Secretary of Energy relating to the packaging and transportation of high-level radioactive waste and spent nuclear fuel, as authorized by section 503 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10263), (2) to hold hearings, sit and act, take testimony, and receive evidence, as authorized by section 504(a) of such Act (42 U.S.C. 10264(a)), and (3) to request the Secretary (or any contractor of the Secretary) to provide the Board with records, files, papers, data, and information, as authorized by section 504(b) of such Act (42 U.S.C. 10264(b)); and the aggregate amount otherwise provided in this Act for ''Energy Programs—Nuclear Waste Disposal'' is hereby reduced by; $500,000.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentlewoman from Nevada (Ms. BERKLEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Nevada (Ms. BERKLEY).

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

I rise today to offer an amendment regarding the transportation of high-level nuclear waste. As we are all aware, the Department of Energy is nearing completion on its report on whether Yucca Mountain should be licensed as the Nation's repository for high-level nuclear waste. The DOE has written lengthy reports on hundreds of issues relating to the project, but has remained eerily silent on the one issue that affects almost every Member of this House: the transportation of nuclear waste across the country.

If the proposed Yucca Mountain repository is approved, the transfer of high-level nuclear waste would necessitate the shipment of over 77,000 tons of lethal nuclear waste through at least 43 States. The DOE has itself recognized that such transfers may result in as many as 300 accidents with potentially catastrophic consequences, yet it has not published national shipping routes. Members of Congress and the American public have a right to know if high-level radioactive waste is going to be trucked through their districts, past their homes and hospitals, their children's schools, and on their neighborhood roads, and they have a right to know what kind of impact these shipments will have on their communities.

That is why I am offering an amendment that would transfer $500,000 to the Nuclear Waste Technical Review Board to help them encourage the DOE to publicize the transportation routes. It is only a matter of common sense and sound public policy that this body would seek the assurance of a review board composed of our country's top nuclear scientists on a matter of such importance and so fraught with danger for our citizens. It seems only appropriate to ensure that the board is given the resources it needs to hold hearings, take testimony, and receive evidence to evaluate the DOE's transportation routes. It is, after all, vitally important that Members of Congress understand fully the potential impact on our communities, our constituents and on the environment.

This amendment builds on the language of the committee report acknowledging the serious public concern with shipping nuclear waste across the country by road and rail and the need to select transportation routes. I want to thank the chairman and the ranking member for their efforts in this regard. Our amendment helps move forward the committee's intent by employing the Nuclear Waste Technical Review Board to analyze the routes and their potential impacts and to further encourage the DOE to make public, make public their proposed routes.

Let me be clear. This is not a vote on whether or not one supports a nuclear repository at Yucca Mountain. This amendment is about whether Members of Congress and our constituents have a right to know, the right to know whether nuclear waste is going to be traveling through our communities. A vote for this amendment is a vote in favor of protecting our neighborhoods from bureaucrats with too little information and too much secrecy. This is, in the end, about the public's right to know.

Mr. Chairman, I strongly urge my colleagues to support this amendment. Again, I want to thank the chairman and the ranking member for their work.

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

Mr. CALLAHAN. Mr. Chairman, I reluctantly rise in opposition to the gentlewoman's amendment.

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

First let me say to the gentlewoman that we are all concerned about the transportation part of the ultimate storage at Yucca Mountain. During the last month, I have traveled to Yucca Mountain and looked at the facility. We have discussed the transportation part of the storage site at Yucca Mountain, and we agree with the gentlewoman that we should be prepared. However, we have ample time to be prepared.

For the gentlewoman's information, we already have provided $3.1 million in the bill for the Nuclear Waste Technical Review Board. They tell us they can live with that much money, and I really do not think that taking another $500,000 and putting it into that study is going to enhance the solution to the gentlewoman's problems at all. Our major concern is that we have a safe conveyance. If, indeed, Yucca Mountain is approved, we need some safe capability of delivering the products through the various States and through the State of Nevada to the site.

So I would agree with the gentlewoman that we should be concerned about it, and we are concerned about it. We brought this up in our committee hearings, and the Department of Energy told us that they had opted to defer more serious transportation planning until after the completion of the review of final site. The final determination has not yet been made. What the Department is saying is that as soon as final determination is made, it is still going to be 6, 7, maybe 9 years before the repository opens. It is going to take a long time, we will still have ample time to study the transportation possibilities. I think that at this time putting an additional $500,000 into a review board that really does not need the money is not the answer to the gentlewoman's problems.

So I would respectfully disagree with the gentlewoman's amendment.

Ms. BERKLEY. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentlewoman from Nevada.

Ms. BERKLEY. Mr. Chairman, I thank the distinguished gentleman.

I think the gentleman is making my point for me, and I appreciate the fact that you have come to Nevada and toured Yucca Mountain. The fact of the matter is the Nuclear Waste Technical Review Board says they do not need the money because they do not have anything to study now because the DOE has not offered the trade routes. The reality of the situation is that the people in this House, our colleagues, have a right to know and their constituents have a right to know if the DOE and our government is planning to use their roads through their neighborhoods, through their towns, to transport 77,000 tons of the most toxic nuclear material known to mankind.

This is a right-to-know issue, and the DOE's feet should be held to the fire, and if giving another half a million dollars to the technical review board so that they can force the DOE to publish those trade routes, I think that is a very important thing.

Also, the committee language, with all due respect, says that they should start doing the trade routes in the State of Nevada. It is my contention that we are doing this a little bass-ackwards. We should not be doing Nevada first, we should be doing all of the transportation routes getting to Nevada, and Nevada should be the last leg of the journey, not the first.

Mr. CALLAHAN. Mr. Chairman, reclaiming my time, we must decide on whether or not that is going to definitely be the site. Once that determination is made, there will be ample time to provide ample resources to the review board to make certain that the public is fully aware of how the transportation needs are going to be met.

So I think the gentlewoman is on the right track; I think she is just a little early, because in a sense, it is an admission that it is going to happen.

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

Mr. CALLAHAN. I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Chairman, I appreciate the gentleman yielding, and I also rise in opposition to the amendment. I appreciate the gentlewoman's concern, but I would also voice the opinion that it is very premature, because this is, after all, about Yucca Mountain, and the site has not been decided upon. The chairman mentioned 6, 7 years. It might be longer than that, and the gentlewoman also suggested that while language in the report talks about the State of Nevada's transportation problem, we should be concerned about other States.

I would just read a sentence or two from the committee report from page 119. This is our language: ''The Department should use available funds in fiscal year 2002 to initiate the selection of

transportation routes in Nevada and other States in cooperation with the States and to begin planning for construction of a rail line to the repository site.''

So again, reluctantly, I also am very opposed to the gentlewoman's amendment.

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

Ms. BERKLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Now, the reason the gentlewoman is raising the issue is quite simple. First of all, we are told that this nuclear technology is so safe that none of us have to worry, none of us have to be concerned at all as the materials are transported down streets in our own communities. On the other hand, there is a law on the books which indemnifies, which makes sure that none of the companies that own the trucks or the trains are liable in the event of an accident.

Well, that is not a good combination. One cannot say on the one hand it is safe and on the other hand say, well, we have to indemnify against any risks of the truck drivers and the train drivers. Who would want people careening through their neighborhoods with no insurance in large trucks, much less trucks or trains with nuclear materials there? So they become ''mobile Chernobyls,'' in a sense. They become these very dangerous vehicles.

What the gentlewoman is saying is that we should have advanced knowledge of which routes are going to be taken, what the precautions are that are being put into place. It is just kind of a common-sense, anticipatory way of looking at these issues, especially since this recipe has been constructed, which could be an invitation to recklessness, to willful misconduct, to excessive drinking or drug-taking by the truck drivers or the train conductors, because they are not liable for any accidents.

□ 1030

And that is why I think the gentlewoman is so concerned. And I think what this issue does is just help to spotlight how concerned all Americans should be if this material starts to move through their neighborhoods.

Ms. BERKLEY. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The gentlewoman from Nevada (Ms. BERKLEY) has 4½ minutes remaining, and the gentleman from Alabama (Mr. CALLAHAN) has 5½ minutes remaining.

Mr. CALLAHAN. Mr. Chairman, I urge a ''no'' vote, and I yield back the balance of my time.

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

Mr. Chairman, two nights ago this House passed legislation that would prohibit dangerous trucks coming to this country from Mexico. Certainly trucks containing nuclear waste going through our neighborhoods is more serious than dangerous Mexican trucks, which we prohibited from coming onto our highways.

It seems to me there is not one of us that can go home to our constituents and say we voted down a piece of legislation that would demand that the Department of Energy actually publish the proposed transportation routes of 77,000 tons of toxic nuclear waste. This nuclear waste is going to be coming across all our neighborhoods, all of our towns, through our communities, through 43 States en route to Yucca Mountain, Nevada.

Now, I appreciate the fact that both the chairman and the ranking member suggest that perhaps this is premature, but listening to what the administration has been saying with their new reliance on nuclear energy and the fact that in the committee language itself, although there has not been completion of the scientific study saying Yucca Mountain will be the Nation's repository, certainly nobody reading the signs can say that this country is not trying very hard to make Yucca Mountain, which has been selected as the only site, the one that is acceptable for nuclear waste. I might add, however, that it is not acceptable, and it is very apparent that it is not.

The fact of the matter is that we have a right to know, and we have a right to protect our constituents. Our constituents, American citizens, have a right to know what their government intends to do. And I would like to hearken back to the nuclear atomic weapons tests that were conducted at the Nevada test site in the 1950s and the 1960s, when we were told there was absolutely no danger to detonating those atomic weapons in the middle of the Nevada desert. The fact of the matter is, every single, and let me repeat that, every single employee of the Nevada test site that worked on those atomic tests are all dying of cancer now and other horrible, heinous ailments. And that is because our Federal Government said, Don't worry, be happy; there is nothing wrong. This is a similar situation 50 years later, and we are hearing the exact same thing from our Federal Government.

For this body not to stand up and protect each one of our constituents, and make sure that that nuclear waste and those trucks are not going to be barreling down our neighborhood streets I think is most irresponsible for anybody that does not support this legislation. This is the single most important issue to the people in Southern Nevada, the people that I represent. I again urge all of my colleagues to stand with us, stand with me, and make a determination to keep our neighborhoods, our schools, our hospitals, and the people that we represent safe.

Mr. BACA. Mr. Chairman, I rise in support of the Berkley amendment to the Energy and Water FY 2002 Appropriations bill, H.R. 2311.

We must study the problems associated with the transportation of nuclear waste and protect our communities.

The likeliest routes will truck much of California's radioactive waste along Interstate 15 and along train tracks straight through San Bernardino County.

It has been said that used fuel is so dangerous that the nuclear plants must isolate the fuel from human contact for 10,000 years. So why would we run the risk of shipping it through our backyards without the proper scientific research and before we have weighed all our options?

Congress has spent billions of dollars on the Yucca Mountain storage site and it is still unknown whether this site is environmentally sound or not. Why should our tax dollars be spent and our health be put at risk without finding out all aspects of this issue? Scientific studies show that transporting such material has potential risks that could end in catastrophic disasters and yet no other option has been proposed.

We must ensure the security of our community. Nuclear waste is a serious issue that must be handled very carefully and thoroughly. I am committed to protecting the health and environment of the 42nd district of California along with all the districts in the United States.

Ms. BERKLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. BERKLEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY) will be postponed.

AMENDMENT OFFERED BY MRS. KELLY

Mrs. KELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. KELLY:

In title IV, in the item relating to ''NUCLEAR REGULATORY COMMISSION—SALARIES AND EXPENSES'', after the second and fourth dollar amounts, insert the following: ''(reduced by $700,000)''.

In title IV, in the item relating to ''NUCLEAR REGULATORY COMMISSION—OFFICE OF INSPECTOR GENERAL'', after the first and second dollar amounts, insert the following: ''(increased by $700,000)''.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentlewoman from New York (Mrs. KELLY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

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

Mr. Chairman, I rise for the purpose of entering into this colloquy with the distinguished chairman of the committee, the gentleman from Alabama (Mr. CALLAHAN).

I wish to discuss the importance of providing additional funding for the NRC Inspector General. I feel that providing the Inspector General with more resources will help the NRC better perform its responsibility of ensuring the safe operation of our Nation's nuclear power plants. Through my own experience, I have found that the agency's priorities have not always been what they should be.

In February of last year, an accident occurred at the Indian Point 2 nuclear power plant in my district. A steam generator tube burst, and the plant was shut down immediately. It goes without saying the people in the community surrounding the plant, myself included, were seriously troubled by this accident. We expected the Federal agency responsible for handling nuclear safety would make every effort to quickly repair and restore public confidence in the plant. I regret to say that the NRC fell short of this very reasonable expectation.

Though the agency itself acknowledged that this plant had the highest risk assessment of any plant in the Nation, they were on red as risk assessment, they demonstrated a stunning indifference to a litany of legitimate concerns about the plant's safety. The NRC chairman refused to play any role whatsoever in the very difficult deliberation as to when the plant ought to be started. The NRC chairman refused to hold a commission hearing at the plant, or even come to Buchanan to see the plant and the surrounding community firsthand.

Not once during the entire 11-month period that the plant was down did the chairman or any of the NRC commissioners think they ought to come to Buchanan, New York, and look at this plant. So the chairman can imagine my profound concern when I learned about some of the places that the NRC chairman and the commissioners did think they ought to go during the time the plant was down: places like Korea, Spain, and Mexico. The public record indicates that during the time the Indian Point 2 plant was down, the chairman of the NRC visited a nuclear power plant in Scotland. He visited three in Canada.

During this time, investigators from the IG's office were at Indian Point cataloguing all of their mistakes. They found a troubling number of things at this plant, and the most troubling they discovered was that an inspection performed back in 1997 plainly indicated the strong likelihood of a leak. The NRC had that information back in 1997. It showed that there was a strong likelihood of a leak, but nothing was done because nobody at the NRC ever looked at the inspection report. This should not have happened.

I realize there is a new interest in nuclear power, and I should say that I am not against nuclear power. But the way that the NRC handled the Nation's most troubled plant raises some real concerns. I understand the gentleman from Alabama has provided a generous increase in the funding for the Inspector General in this bill. I commend him and thank him for it.

Is it the gentleman's understanding that this additional funding will be available for further independent reviews of NRC regulating activities?

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

Mrs. KELLY. I yield to the gentleman from Alabama.

Mr. CALLAHAN. I thank the gentlewoman for her work on this issue, Mr. Chairman; and I share her feelings about the importance of ensuring that the NRC Inspector General is provided the resources it needs for conducting independent reviews. This additional $680 million that we have in this bill is available for this very purpose.

Mrs. KELLY. I thank the gentleman. I would ask only that the gentleman continue to keep in mind the importance of a strong funding level for the NRC Inspector General as we continue to work on this bill, and also that he continue to vigorously oversee the agency to ensure that unnecessary travel expenses are not incurred by the NRC officials.

Mr. CALLAHAN. If the gentlewoman will yield further, I will continue to closely monitor all expenditures incurred by NRC officials to ensure that their resources are not improperly squandered.

Mrs. KELLY. I thank the gentleman from Alabama very much, the distinguished chairman of the subcommittee.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. DAVIS OF FLORIDA

Mr. DAVIS of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DAVIS of Florida:

In title III, in the item relating to ''FEDERAL ENERGY REGULATORY COMMISSION—SALARIES AND EXPENSES'', strike the last proviso (relating to Gulfstream Natural Gas Project).

The CHAIRMAN. Pursuant to the order of the House of Wednesday, June 27, 2001, the gentleman from Florida (Mr. DAVIS) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to set the context of this amendment because it takes us back a little bit. Last week, we had a debate on the floor of the House of Representatives. It was a very hearty, very democratic debate on the floor about an amendment I offered, along with the gentleman from Florida (Mr. SCARBOROUGH), to prevent the Secretary of the Interior from going forward with issuing any new leases for offshore oil drilling, oil and gas, 17 miles off the coast of Pensacola, some of the most pristine beaches in not just the State of Florida but of the country, and about 200 miles off the coast of Tampa Bay, my home.

The House adopted our amendment by a vote of 247, and the bill is now in the Senate where it will be debated there. Unfortunately, the highly esteemed chairman of the Subcommittee on Energy and Water Development, the gentleman from Alabama (Mr. CALLAHAN), was in Alabama, with other members of the Alabama delegation traveling with the President, and was not present for the debate. I regret that, and I know he certainly regrets it as well. But the House has done its will and spoke on that particular issue.

The reason I rise today to offer this amendment is because the gentleman from Alabama (Mr. CALLAHAN) has inserted some language in this particular bill we are debating, which I think is fair to describe as a response to the debate last week. What that language, which I will speak about in more detail in a while, along with other Members both Democrats and Republicans, what that language does is to punish the State of Florida and, I would submit, other States who have a stake in a natural gas pipeline that has already had $800 million spent on it and is due to open in approximately 1 year.

The language that the gentleman from Alabama (Mr. CALLAHAN) has inserted would basically bring that pipeline to a grinding halt. I think that is an irresponsible position for the House of Representatives to take today. I personally would not want to go home on the 4th of July and have to explain that I had voted for a bill that had that language in it.

I do understand the gentleman's point. His point is he wishes he had been here for the debate, and I think he disagrees in the strongest terms with the outcome of the debate last week. But that debate is over, and we are dealing with a new issue today and it is an issue that affects hundreds of workers' lives.

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

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment.

Mr. Chairman, let me say that, as the gentleman from Florida just mentioned, yes, they did bring up this measure while I, along with the other members of the Alabama delegation, were traveling with the President last week, which is their prerogative. I think, out of deference to me and to my State and to my delegation, that they should have at least informed us the night before of their intent. But they failed to do that, which is their prerogative. They do not have to notify me of anything if they do not want to. But I thought it awful strange they waited until we got out of town. When it was obvious we could not get back, this did not allow us the opportunity to defend our State.

But this amendment has nothing to do with that. As the gentleman from Florida said, the vote last Thursday was the will of the Congress. This has nothing to do with permitting the drilling of oil off the coast of Alabama, which 181 does. It has nothing to do with that.

I think it is the height of hypocrisy for Floridians, especially the sponsor of this amendment, to say we are not going to allow drilling for natural gas in the Gulf of Mexico because it is 270 miles off the coast of Tampa, but at the same time we want a pipeline from Alabama to Florida because we need this gas. They tell us that a 142 percent expectation of increased need is going to take place in the next 6 years in Florida. So what they said was, do not drill for the gas, but go ahead and build the pipeline and supply us with gas.

Mr. Chairman, they have got to make up their mind. It is the height of hypocrisy to try to pull the wool over the Floridians' eyes just because it might look good in the local newspaper, or statewide newspaper, if someone happens to be running for a public office statewide. It is the height of hypocrisy to on the one hand go to your people and say, look how strong I am, look how faithful I am, look what I am doing to protect the beautiful beaches of Florida, look what I have done, reelect me or send me to another office, do all of these good things; but let us go ahead and build that pipeline because we know it is going to happen anyway. And if it is not going to happen anyway, well, then, we do not want them drilling off the coast of Alabama for additional resources. We are going to take this resource away from the people of Alabama.

So they are saying to Alabamans, you suffer, but do not let us suffer. Let us run our air conditioners all year long, because the weather and the climate in Florida is so wonderful and so beautiful it requires that they have more air-conditioning. We want to do that. We want to provide for Floridians the ample resources they need, thereby ensuring they will not have the same energy crisis in Florida, which is what is going to happen.

We do not want that to happen to our neighbors in Florida, and we are not going to let that happen. But, in my opinion, why build a pipeline to transport a gas when the author of this bill is the one who authored the other bill saying do not drill for gas.

□ 1045

Mr. Chairman, why are we going to disrupt the sandy bottom of the beautiful Gulf of Mexico and risk that brown sand turning the beautiful beaches of the panhandle in Destin and in Pensacola into a brown beach instead of a sugar-white beach? Why would we risk that if we are not going to have a resource? It is a mystery to me.

The only solution I can find to that mystery is that someone is grandstanding here. Someone either believes or wants it to happen on the one hand, and is trying for some reason to convince the Floridians that might read about this that he is a savior of Florida, and maybe he is.

I think Jeb Bush has done more, Mr. Chairman, to preserve the pristine beaches of Florida and make sure that there is no offshore drilling off the coast of Florida than anybody in history, and he is to be commended for that. But I do not know how we can tolerate the hypocrisy of what we are hearing here today, and that is do not drill for oil. That is accepted. That is not in question today; but just in case we do, then send it to Florida through this pipeline that we are going to lay on the bottom of the beautiful Gulf of Mexico.

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

Mr. DAVIS of Florida. Mr. Chairman, I yield 4 minutes to myself to respond.

Mr. Chairman, I am going to stick to the facts today. I think that holds us up to the standard that we should be held up to. First, I am flattered at the notion that I had the chance to control the timing of the debate last week. I wish I had that much influence. It is clear that the gentleman from Florida (Mr. SCARBOROUGH) and I do not.

As far as the notice, I regret that the gentleman from Alabama was not aware. The amendment was not filed until the morning of the debate because I had difficulties with the Congressional Budget Office getting an amendment that would not be subject to a point of order, and that is the reason why the amendment only has a 6-month duration for the fiscal year.

Mr. Chairman, let me correct something the gentleman from Alabama said. Section 181 is 200 miles, not 270 miles, off the coast of Tampa Bay, my home. That is where I grew up. I remember an oil spill that happened there when I was a child. It was not a rig, it was a barge, but it had the same impact. This is 17 miles from the district that the gentleman from Florida (Mr. SCARBOROUGH) represents, and he can talk about that better than I can.

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

Mr. DAVIS of Florida. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I might point out that they are already drilling now within 1 mile of the district of the gentleman from Florida (Mr. SCARBOROUGH). That is not an argument.

These waters are primarily the waters within 17 miles of the beaches or offshore land of the gentleman from Florida (Mr. SCARBOROUGH) that belong to and are the State of Alabama. They are directly south of Alabama and not Florida. We can argue all we want by slanting arrows to Alabama that these are areas off the gentleman from Florida's (Mr. SCARBOROUGH) beaches, but that is not factual. That is misleading. That is hypocrisy.

Mr. DAVIS of Florida. Reclaiming my time, Mr. Chairman, let us stick with the facts and not hyperbole. It is 17 miles. The gentleman and I can disagree whether or not that is Florida's coast or not. The fact is it is 17 miles from some of the most pristine beaches of not just Florida, but in the country.

Mr. Chairman, the gentleman from Alabama (Mr. CALLAHAN) said yesterday on numerous occasions that he wanted to be remembered as a champion of Florida's beaches, and after he retired, and I hope that is not soon, Mr. Chairman, to travel around our beautiful beaches. That is where many of the gentleman's constituents and constituents of Democrat and Republican Members of Congress head this summer, to our beaches.

No, we do not want drilling off our coast that poses an unreasonable risk, and we do need energy, Mr. Chairman. The gentleman from Alabama (Mr. CALLAHAN) is correct about that. I know the gentleman from Alabama (Mr. CALLAHAN) wants energy for his State, too, but that does not mean he has to live next door to a nuclear power facility or any type of facility at all.

This is about balance. That is what the debate is about. It is about balance in terms of protecting our cherished environment.

Let me tell the gentleman, if it is hypocritical for Floridians to cherish their environment, then I proudly wear that label. We think there can be balance achieved, but we do not think that the language in the bill that the amendment addresses does anything to achieve that balance.

Let me also say this is not about allocating credit and blame. The public is too smart for that. I am pleased the

gentleman from Alabama (Mr. CALLAHAN) mentioned the Governor of the State of Florida. He supports my amendment, Mr. Chairman; and Floridians support this amendment.

If this pipeline was not being built yet, I think the gentleman from Alabama (Mr. CALLAHAN) could have a plausible basis for his position. But let me just state the facts, and then yield to the gentleman from Florida (Mr. SCARBOROUGH).

This pipeline has had $800 million spent on it. There are hundreds of workers all over the country who are thankfully on the verge of earning a bonus for early completion. What are we saying to these workers and their families if we pass a bill today that brings that project to a grinding halt? I do not think that is responsible. That is what we ought to be debating today, whether or not the Congress ought to take that position.

Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, I thank the gentleman from Florida for this amendment. I want to underline what he said about the Governor of the State of Florida. Jeb Bush not only supported our efforts last week, he supported our efforts in a bill that we have dropped regarding 181; and he and the State of Florida support the pipeline.

I think there is some hypocrisy going on here. I also think some people are having some fun, and I have no problem with people having fun on the House floor with some tongue-in-cheek amendments. But I could not help being moved yesterday by the gentleman from Alabama's (Mr. CALLAHAN) love for northwest Florida beaches, and his stated desire to protect those beaches. And he said yesterday that he is going to do everything he can to protect the environment of northwest Florida. He specifically noted the scenic beauty of the beaches from Perdido Key all of the way over to Panama City beach, Destin, Seaside. It is a wonderful place, is it not, Mr. Chairman? And he knows because we are neighbors.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, the gentleman from Alabama (Mr. CALLAHAN) also spoke of his love for the pristine beaches of the west coast of Florida, not just the northwest. He favored all of our beaches yesterday in that debate.

Mr. SCARBOROUGH. Yes, sir, and they are beautiful, too, sir. Mr. Chairman, my grandmother would term what the gentleman from Alabama (Mr. CALLAHAN) is doing for us in northwest Florida as gracious plenty; but I have to say, I thought I could do one thing in return to help his constituents the way he is trying to help mine, and if we can get a unanimous consent later on, maybe after this vote, perhaps we could offer my amendment which passed through legislative counsel last night, and I am introducing an amendment to protect the workers of the district of the gentleman from Alabama (Mr. CALLAHAN) and the State of Alabama from layoffs and firings that would occur if the Callahan language were to survive.

As much as I appreciate his love for the natural beauty of northwest Florida, I feel an equally pressing need to show my affection for the working men and women of the State of Alabama.

Just as he wants to protect Florida bases, I want to protect Alabama jobs that would be lost if those who are currently employed working on the Gulfstream natural gas project are not able to complete their work. And that is in my district, too, at Berg Steel and across the States of Louisiana and Texas and Alabama.

I fear, though, that the precedent that is being set by what the chairman has attempted to do in this bill could be dangerous because, let us think about it. Just for 1 second, let us think about it. If we use this logic that is being used, like, for instance, communities that do not want drilling 17 miles off their beaches should not be able to get natural gas, well, let us see how that would apply to other things.

If one likes chicken, under the amendment's logic, community chicken farms would have to spring up on every block because it would be hypocritical not to have chicken coops in the back yards of everybody's house that eats chicken. Think about sausage. In Pensacola, Florida, we have a place called The Coffee Cup. It is a greasy spoon that serves bacon, and I will be the first to admit, I love bacon. I consume bacon. But I sure as heck do not want to have a self-sustaining Coffee Cup slaughterhouse in the parking lot behind that restaurant and every other restaurant, but, using this logic, would have to do it.

Got milk? Better tie up the cow behind the barn because if one likes milk, if you consume milk, you better have the cow. Just like on the commercial where the guy goes up, he wants milk on his cereal, it looks preposterous. That is the world that we are heading into if we have protectionism where if you consume it in your district, you have to make it in your district.

Mr. Chairman, that is why I think this is tongue-in-cheek, because the gentleman from Alabama (Mr. CALLAHAN) knows that is not the way that the American economy works. The gentleman from Alabama (Mr. CALLAHAN) knows that there are strengths in every area. Texas, Louisiana, Mississippi, Alabama, they have their strengths. Northwest Florida and the State of Florida, they also have their strengths; and who among us does not know that Florida's strength lies in its natural beauty of its beaches.

I want to say that I understand that the chairman was upset because we took this vote when the State of Alabama Caucus, most of them, were out of the Capitol. Mr. Chairman, as I said to you in the cloak room before I hugged you for trying to protect my district so much, my staff worker that was responsible for tracking the whereabouts of the Alabama delegation must have been off that day. I know it will shock the gentleman, but I did not know that the delegation was down with the President in Alabama. I found out when we were on the floor, and if the gentleman from Alabama (Mr. CALLAHAN) wants, we can have, maybe after this amendment passes, we can have a unanimous consent decree that we pass something that suggests that had the Alabama delegation been here, the Davis-Scarborough amendment would have passed 247 to 194 instead of 247 to 188. It was not even close.

That being said, there is common courtesy in the House. I can tell the gentleman, the gentleman from Florida (Mr. DAVIS) and I had no idea that the Alabama delegation was gone. If we had, certainly we could have delayed it. But I can tell the gentleman, neither the gentleman from Florida (Mr. DAVIS) nor I controls what happens on this floor.

So I will say once again, it does not make sense for us to have this philosophy that if one does not produce it, one cannot consume it. It leads to a thousand different ridiculous conclusions. Therefore, I am hoping that the Davis-Scarborough amendment will pass and that we can move forward and that we can have the pipeline that will help workers not only in Florida, but also in Alabama, Louisiana, Mississippi and Texas.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair reminds Members to direct their comments to the Chair and not to other Members.

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

Mr. Chairman, let me say that once again we are experiencing sort of a demagoguery, sort of an attempt to mislead the Members of Congress as to what this amendment is all about.

This amendment has zero to do with drilling off the coast of Alabama or Florida. It has nothing to do with it. I mean, that is water under the dam. That water is gone. They did that in my absence, and I will accept the gentleman's apology. And let me apologize to him. I never thought the gentleman ought to keep track of me. I never thought that the gentleman ought to get his scheduler to poll to see where the Alabama delegation is. But this is a body of compromise, a body of congeniality, a body of friendship. I would

never think of doing this to anyone in Florida when I knew they were gone; but that is water under the dam.

This amendment has zero to do with the drilling aspect, and quit trying to tell the Members of this body that it does. It has to do with the laying of a pipeline from Mobile, Alabama, my district, to Florida, and even the Florida newspapers are saying that the gas pipeline will cause damage in the Gulf of Mexico.

So here we have the Florida Naples Daily saying that it is going to cause damage to the environment, and now we do not have the Florida delegation defending that, they are saying, go ahead and destroy our environment. Build that nasty old pipeline. Bring the gas in from somewhere else.

□ 1100

Mr. Chairman, we ought to talk about the subject matter, not what happened last week.

Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi (Mr. WICKER), a distinguished and knowledgeable Member of this issue and also a member of the subcommittee.

Mr. WICKER. I thank the gentleman for yielding me this time.

Mr. Chairman, a former Member of this body once went down in history when he made the statement, ''Don't confuse me with the facts, my mind is made up.''

Although the chairman of the subcommittee has just told us that this is not about the drilling in lease area 181, I did have to feel that way last week during the discussion of the Davis amendment. ''Don't confuse us with the facts,'' some of our colleagues said, ''our minds are made up.''

''Forget the fact that this Nation is in an energy crisis. Just forget the fact that area 181 is way out in the Gulf of Mexico. My mind is made up. Forget the fact that we need to get rid of our dependence on foreign sources of energy. Just forget that. Don't confuse me with that fact, our minds are made up.''

And then there was the constant discussion last week about drilling off the coast of Florida. Even The Washington Post, the next day, talked about drilling off the coast of Florida without giving the reader the foggiest notion of what we were talking about.

So what we are talking about, Mr. Chairman, is drilling in the colored-in area here which is called ''Sale 181 Area.''

As Members can see, it is over 213 miles from Tampa Bay, this drilling which our friends from Florida are calling off the coast of Florida. 213 miles away. Over 100 miles away from Panama City there. Yet it is being described by people in that delegation as being off the coast of Florida.

Now, it is true that there is a small strip of water, a small strip of the gulf in lease area 181 that goes up to the coast of Alabama. I want to suggest, perhaps, to the gentleman from Alabama (Mr. CALLAHAN) that he should apologize on behalf of the State of Alabama for being so close to Pensacola, Florida. But the fact of the matter is that this strip that extends within 17 miles of the coast of Alabama is Alabama territory. I think Alabama should get to make that choice.

And also forget the fact, our friends tell us, the supporters of the Davis amendment, that drilling offshore is not only environmentally sound nowadays but it can even be environmentally friendly.

Now, let me say a word of caution to my colleagues, Mr. Chairman. And I mean this sincerely. There has been the use of the word ''hypocrisy'' by both sides. Someone is going to jump up sometime and ask that words be taken down. I wish we would not use the word ''hypocrisy.'' I think that has been established as perhaps going above and beyond what we can do on the floor here. But I do think there is a degree of audacity in this argument here. And the audacity, the gentleman from Florida (Mr. SCARBOROUGH) is right, it is bipartisan. It is bipartisan.

I learned from the State Department yesterday that most nations in the world claim 12 nautical miles off the coast as their territory. Only one nation does not do this and that is Communist China. They claim 200 miles. There is a little bit of a parallel here. The people of Florida are saying off the coast of Florida is 213 miles, ''That's our coast.'' Off the coast of Florida is 108 miles from Fort Walton Beach. They are saying, ''Don't give us the 12 nautical miles. Give us 108 miles. Give us 213 miles.'' A bit of audacity there.

Let me just say this. Perhaps we do not need this pipeline anymore. We were talking last week with the Davis amendment about 7.8 trillion cubic feet of natural gas. I think this body, Mr. Chairman, made a grave mistake to decide that this Nation will forgo this very needed natural resource. It is not a question of where you put the sausage factory. It is not a question of where you bring the cow. This is where the natural gas is. It is right there in lease area 181. We have decided, and I hope we can reverse that decision, Mr. Chairman, we have decided to forgo it. So since we are not going to have the 7.8 trillion cubic feet, I say there is no need for the pipeline to carry only 1 million cubic feet per day.

I urge the defeat of the Davis amendment.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 1 minute.

The gentleman who last spoke wants to redebate the amendment last week and the chairman does not and I respect the chairman's view on that. I do not think we should redebate it. But since he brought it up, let me respond.

There are 21 days of crude oil in section 181. We do not think as Floridians we should have to choose between satisfying our energy needs and exposing ourselves to undue environmental risk for 21 days of crude oil. The House has spoken on that. We sent a very strong message that we need a more balanced approach to environmental and energy policy, not just in Florida but in the country, and that vote stands.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. I thank the gentleman for yielding me this time.

I stand today to say that I support the amendment offered by the gentleman from Florida (Mr. DAVIS). I was struck a little bit by the idea that we are not here because of what happened last week. And so at some point I would like the gentleman from Alabama to tell me why we are here then.

This is a project that, in fact, is going to be completed by this winter, about 753 miles long. The fact of the matter is that in my district, because this comes through my district, it was controversial. FERC held public hearings at which the concerns of these interested citizens were heard. In response, Gulfstream modified the pipeline plan and now FERC is reviewing the revised plan. So I do not think there is really a legitimate reason at this time for the House to stop this process, and I think that is what this amendment actually would do and why we are here.

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

Mrs. THURMAN. I yield to the gentleman from Alabama.

Mr. CALLAHAN. No, that is not why we are here. This has nothing to do with the drilling. It has to do with the fact that there is not going to be any natural gas and if there is not going to be, why build a pipeline. That is why we are here. It has only to do with the pipeline, not the drilling.

Mrs. THURMAN. Reclaiming my time, there has been natural gas and there continues to be natural gas. We have natural gas already. So I think that is kind of not true.

We get natural gas from other places. All we are saying is, we do not want the drilling in Florida. I think the gentleman can understand that. I mean, I have been to some of these other States where they have beaches and, quite frankly, I do not like getting into Louisiana's water because it is greasy and nasty and looks bad and I do not like it. I apologize to the gentleman from Louisiana (Mr. TAUZIN), but I have been there and I have swam in some of those areas, in Lake Charles. So we have some real concerns about what is going on. We have some concerns about the idea that this is taking place today.

Maybe it was not the gentleman from Alabama's intention because of what

happened last week, but some of the articles that I have read in Florida actually do say that, and that this was controversial.

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

In response to the gentlewoman as to why we are doing it today, I had my staff poll the Florida delegation to make certain they were all going to be here today and that was the appropriate time to bring it up, when the Florida delegation was all here.

In response to the gentleman from Mississippi's suggestion about Pensacola, Mr. Chairman, a lot of people in that Panhandle called me my entire tenure when I was in the Senate asking me to annex them into Alabama. Maybe that is a solution. If we annex the whole Panhandle into Alabama, then they will not have any argument about it being 17 miles away.

And with further respect to his indication that my words could be taken down for saying the word ''hypocrisy,'' maybe he is right. It is the height of arrogance that causes us to be here today.

Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Chairman, I think it is very interesting, I hope our Members are watching this debate, because it is so telling about what is going on in the debate about providing energy so that Americans can turn on their lights, turn their stoves on and get natural gas, heat their homes. It is just amazing to me.

The Florida delegation, Mr. Chairman, says that they want to keep this pipeline, that if we do away with the pipeline it is going to cost jobs. But last week they did not care about the jobs that would be lost by shutting down a lease sale. And now we are listening to the argument that exploring and producing oil and gas, natural gas, is like raising chickens. I guess if I asked the Florida delegation where does natural gas come from, they would say, ''My stove.''

Mr. Chairman, I rise to oppose this amendment to let Floridians share in the shortages that they are forcing on the rest of America. Last week, our friends from Florida torpedoed an extremely promising field of oil and gas. That action jeopardized our energy security. However, they do not apply that policy consistently. It turns out that Floridians are far more accommodating on energy issues that directly benefit their own State.

They shot down lease sale 181 even though it holds billions of barrels of oil and trillions of cubic feet of natural gas. The Florida delegation ignored the important role that these reserves could have in the lowering of our national dependence on foreign sources.

It is common knowledge that America is increasingly relying on natural gas to produce electricity. That trend is happening because making electricity with natural gas can be less taxing on the environment than other types of generation. Well, it has to come from somewhere.

They will not let us find more in the gulf, but Florida sure is not resisting the trend toward natural gas. Florida's natural gas demand for electricity will double over the next 20 years. Florida's population will grow by a third over the same time period. And they plan to supply electricity to their expanded population with generating plants that burn natural gas. This is the height, oh, I have to use the word, of arrogance. Of arrogance. I did not want to use the word. This is the height of arrogance. Florida is happy to burn it, but they block the rest of America from securing a steady and adequate supply of natural gas.

That is why Members from Florida are not blocking a proposed natural gas pipeline that will stretch 800 miles through gulf waters from Alabama to the beaches of Florida. And these are the same gulf waters that Florida placed off-limits to exploration that could help the rest of the country. I oppose the gentleman from Florida's amendment to block opposition to this pipeline.

Florida rivals California as a prime example of the not-in-my-backyard syndrome. Let Florida take the lead in conservation. Let them make do with half the natural gas that they are projected to need. If Florida is going to lead America to greater dependence on foreign sources of energy, then let them do it on their own.

There is another thing Floridians ought to remember, as pretty as their beaches may be, they are still a long walk from most places in America. And if their reactionary opposition to oil exploration holds sway, tourists will be making their way to Florida on shoe leather. Members should oppose this amendment to help Floridians understand the implications of their actions.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 2 minutes to respond to the previous comments.

First, there is a very important distinction between my amendment today and the amendment last week. The purpose of the amendment last week was to protect the beaches of Florida. It was not to punish any other State. I am not going to speak to what the purpose of the language in the bill is, but I will tell you what the effect is. The effect is to punish Florida, not to protect anybody else.

Secondly, with respect to jobs. Last week, every Member of Congress that spoke in opposition to the Davis-Scarborough amendment was from an oil-producing State and they were protecting jobs in their areas. As I said on the floor and I will say again today, they do not have to apologize for that. But let me just say today, this is not about protecting jobs in Florida. This is about protecting jobs in Texas, Alabama, North Carolina and other States. Those are the States where there are hundreds of workers who have already spent time building a pipeline that is nearing completion. So this is not about protecting jobs in Florida today.

Thirdly, the gentleman from Texas (Mr. DELAY) made the comment that we want natural gas but we do not want rigs off our coast. Yes, we think that is a false choice.

□ 1115

We do not think we should have to choose between spoiling our beaches and running the air conditioner. We think we can have balance. Know what? If people in Texas and Louisiana want to drill more off their coast and sell us their natural gas, and I am sure they will mark it up for a pretty reasonable profit, they should do that but we do not want that. We have not given up on our beaches. They may have given up on our beaches but we have not given up on our beaches, and that is why we do not want the rigs in our backyard.

Now let me say another very important reason why this amendment needs to be adopted. We want competition in Florida. We do not want to happen in Florida what happened in California, which is the market fails and the consumers get squeezed. This pipeline will create competition. We will have more than one pipeline in Florida, and that is good for consumers. It is the way the market is supposed to work. It is good, old-fashioned competition.

Finally, the statement was made that Florida needs to do more in conservation energy efficiency. That is absolutely correct, but let us do it together as a country, and Texas and Florida, let us work together as a Congress to empower consumers and States to do more to use energy more wisely and more efficiently.

Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. SCARBOROUGH).

Mr. SCARBOROUGH. Mr. Chairman, let me just say, I have always respected the gentleman from Texas (Mr. DELAY) because he shoots it straight, and what he told us during his 4 minutes was what this is really about, and this provision really is about punishing Florida. It is an act of revenge because of what happened last week.

Regarding a couple of the statements of the gentleman from Mississippi (Mr. WICKER), he once again said it is way out in the Gulf of Mexico. It is not. It is 17 miles.

Another thing, the gentleman from Alabama (Chairman CALLAHAN) is offended because he said this is a House of courtesy, that he should have been notified because it is a House of courtesy. Right after that, he accused me

personally of demagoguery and hypocrisy and of intentionally misleading Members.

I did not take his words down because he loves the northwest Florida environment so much. Also, I had the gentleman from Mississippi (Mr. WICKER) to come up soon afterwards and try to tone things down, as I hope we can do. Unfortunately, the gentleman from Mississippi (Mr. WICKER) then went on and compared my district to Communist China, but we will talk about that at another day.

I hope we can tone this down, and I hope we can understand what this really is all about. It is about punishing the State of Florida because over 200, almost 250 people, in this Chamber voted to protect our shoreline.

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

Mr. Chairman, I would like to respond somewhat to the comments of the gentleman from Florida (Mr. SCARBOROUGH) about where we are today and why we are here.

He keeps bringing up, everyone keeps bringing up, the vote that took place last week in our absence. As to whether or not it was done in the still of the night while I was gone, that is something that we can resolve. Maybe it was not. Maybe they had good intentions. Maybe they were just, I do not want to say ignorant, of my absence, but and I apologized to him, as I have already said, about the hypocrisy word; and I have changed that to arrogance. That is not the issue.

The issue is the pipeline, and the issue is what is going to be put in the pipeline. The gentleman from Florida has already said that they already have pipelines going into Florida; they want to build more pipelines because they need more natural gas. Now since we are not going to be able to drill in this particular section of the gulf, there is not going to be any more natural gas. So why build a pipeline when the gentleman's own newspapers in Florida are telling him that it could be devastating to his own environment? And therein comes my want to protect the beautiful beaches of Florida and especially the beautiful beaches of the Tampa Bay area.

When I take my boat to Florida, as I mentioned the other day, when I retire, if I ever do, when I go there I am going to go dock at a marina in Sarasota. That is where I want to be because that water is so pure, those beaches are so clean. I do not want to do anything to damage those beaches.

This is not about drilling. This is about the fact that this body decided we do not need any more drilling; we do not need any more natural gas. If we are not going to have any more natural gas, why do we need a pipeline to transport it? Therein lies the arrogance of what I was referring to when I mentioned the word hypocrisy. That is what I was referring to.

Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the Committee on Energy and Commerce, who is more impacted by this than Alabama, than Florida, than anybody else, because it is closer to his district than anywhere else; and he is about as knowledgeable of this industry as anyone in this body.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Alabama (Mr. CALLAHAN) for yielding me this time.

Mr. Chairman, I do want to calm things down because things get said in the heat of argument that I know Members would rather they did not say. So let me put something on the record.

The wetlands, the pristine wetlands in many cases, in my State are precious to me, and the waters of Louisiana are precious. They produce 28 percent of this Nation's landings and seafood that all of us enjoy, and we do it simultaneously with producing 27 percent of the Nation's natural gas and 27 percent of the Nation's oil. Keep that in mind.

Our people have made a commitment to this country, not just to keep our wetlands safe, not just to keep our fisheries up and sound and running for everyone, but also to produce oil and gas for the rest of the country, including Florida. There is a national wildlife reserve in my district called Mandalay. I asked Secretary Norton if she ever came to it. She said she did not.

Come to Mandalay National Wildlife Reserve in my district, come and see it. It is full of wildlife, not just a few wildlife like one herd of caribou, but a massive amount of wildlife. We have 100 wells drilled in Mandalay National Wildlife Reserve producing oil and gas for the rest of America.

I asked her, is the National Wildlife Reserve in Louisiana less precious than ANWR? Less precious than section 181? Less precious than any block of land off of California? Why is it that this country makes a moral judgment that drilling off the coast of Florida? Even if this block were really off the coast of Florida instead of off the coast of Alabama and Louisiana and Mississippi, even if the facts were right that this land we are talking about in the gulf were really closer to Florida than it is to Louisiana in its entirety, not just in one little point, even if that judgment was right, and I question that, what makes production of resources in those areas of the country more desirable, from a moral standpoint, than production in the beautiful wetlands of Louisiana?

Now, I take quarrel with the gentlewoman who talked about our waters. We drained 40-something States through Louisiana. A lot of muddy water comes through Louisiana. Yet our wetlands are precious to us, but yet we accommodate this Nation in its oil and gas needs.

The gentleman from Alabama (Mr. CALLAHAN) has raised a good question. We are going to debate an energy policy on this floor pretty soon. We ought to think about the morality of an energy policy that says for some parts of America one does not have to take any risk, one does not have to take any risk at all, because somebody else will take the risk for them. Somebody else's wetlands, somebody else's coast is going to take a risk for them.

I asked Secretary Norton what would happen to this country if Louisiana decided to put an amendment on this floor to stop oil and gas drilling off our coast because we thought our Mandalay wetlands and our wetlands were as precious as the wetlands and the beaches of other States of this country? If we decided not to take that risk anymore, what would happen to this country if we lost 27 percent of the oil and the gas?

What was the answer? It would be pretty severe.

I said, no, ma'am. It would be catastrophic. This country would fall apart.

We are already buying oil from Iraq to turn it into jet fuel to put it in our planes to fly over Iraq to bomb the radar sites that are trying to kill American pilots today. How stupid is that policy? In a few short weeks we are going to be debating real broad national energy policy. And, yes, we will talk about conservation, and we will talk about protecting the environment and supplying this country with the energy it needs so that Americans can turn on the lights and they will not be off as they were in California this summer.

We have a moral question to answer in this body, too. Is it moral to protect some people from the risks of production and to ask some of us to do it all? The answer should be no. A pipeline is not needed if the natural gas is not produced.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. CARSON).

Mr. CARSON of Oklahoma. Mr. Chairman, I rise in strong support of the Davis amendment to strike the language from the appropriations bill that would stop the Gulf Stream pipeline in mid-construction.

The chairman and the gentleman from Louisiana (Mr. TAUZIN) raised great points about the need for an energy policy in this country, and in the interest of consistency it should be noted that I voted to explore and produce in section 181, just as I support opening up other public lands across this country.

It is critical that construction of this pipeline be allowed to continue, especially at a time when we do recognize the need for improving our energy infrastructure. I think both of us on both

sides of the aisle would agree that improving and increasing our infrastructure and its ability to supply the country with needed energy is a key component of any sensible energy policy. The completion of this pipeline will provide much needed natural gas throughout central and southern Florida, as well as providing many jobs for the people of the Gulf Coast region.

After all, pipes have already been ordered and delivered. Commitments have been made to construction companies. Contracts have been signed with customers. Power plants are now being built in anticipation of this project being completed.

The gentleman from Alabama (Mr. CALLAHAN) is right that this is not a vote about section 181. I was in the minority of this House in supporting drilling and exploration there. Today, the question is whether in the annals of all the wise policy tools at our disposal whether we shall cut off our nose to spite our face. Passing this appropriations bills with a prohibition would have the effect of stopping this pipeline and its construction.

The Federal Energy Regulatory Commission has already approved the project. The construction materials are already ordered at the cost of $800 million. The current language would prevent FERC from continuing the various approvals that are needed for ongoing construction.

Keeping this language in the energy and water appropriations bill would be both bad energy policy and bad public policy. If we are serious about a national energy policy, if we are serious about improving our infrastructure, let us build this pipeline.

Let us not act in petulance or in haste just because we lost one vote in this House. Let us work together to improve our national energy policy. I strongly encourage a ''yes'' vote on the Davis amendment to strike this unfortunate language from the energy and water appropriations billing.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I thank the gentleman from Alabama (Mr. CALLAHAN) for yielding me this time.

Mr. Chairman, the steel industry in Alabama is struggling. We have just lost two steel mills. That means that steel workers, iron workers, boiler makers, electricians, sheet metal workers, railroad crafts have been put out of work.

The Davis amendment allows the construction of a natural gas pipeline from Alabama to Florida. We just heard the gentleman say that contracts have already been let. That pipeline is to be constructed largely with imported steel. That adds insult to injury for those of us in Alabama. For that reason, the members of the steel caucus, those who have those crafts in their States, should be aware that a yes vote on the Davis amendment will allow the continued use of imported steel and steel products for the construction of this pipeline. That is why yesterday the gentleman from Pennsylvania (Mr. ENGLISH), chairman of the Congressional Steel Caucus, sent a letter to all members of the steel caucus and I want to reiterate to anyone who has a steel industry in their district to take a long look and vote no on this measure.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, nobody has answered the question yet why we are here. The gentleman from Mississippi (Mr. WICKER) said we are here to redebate the amendment; the gentleman from Alabama (Mr. CALLAHAN) to put the language in the amendment, but he still has not told us why we are here.

Let me say what is happening because this is a fact. We have opened a can of worms here today. I would say to the gentleman from Alabama (Mr. CALLAHAN), we are hearing a new debate and the debate is that a pipeline on which $800 million has already been spent, we are going to debate whether it used the right kind of steel and if it did not we are going to shut it down. That is lunacy. Yes, this pipeline has some steel from other countries and it also has a lot of steel from the United States. Some of it was fabricated in Mobile, Alabama.

Let me add something else. I have been asked questions whether this is a unionized project or not. We are going to debate whether this was unionized after it has been built? What are we going to do deconstruct the thing and build a fishing reef off the coast of Mobile? This is a unionized project. Is it 100 percent unionized? No, it is not. So is that a basis to defeat the amendment and scrap this project? Lunacy.

Let me also point out, this pipeline was built to transport natural gas that is already being drilled and extracted in the Mobile area.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. SCARBOROUGH).

□ 1130

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

Just very quickly, I want to say that we did find out why we are here today. Again, the gentleman from Texas (Mr. DELAY) is a straight shooter. He told us why we are here today, because of the vote of last week; basically telling Florida if you do not want to drill, then you do not get our gas.

He also talked about oil, which, of course, everybody says this is not about oil, it is about natural gas. It is about oil, eventually.

Also I just want to say to the gentleman from Louisiana (Mr. TAUZIN), certainly Louisiana does take the risk; but it takes an economic risk. That is what America is about. He says that everybody has to go ahead and do what Louisiana is doing, or else we are all in danger and are not going to be able to put fuel into jets.

Well, that is what capitalism is all about. People make economic choices. They decide what their region or their State or their country is best at; and then, after they make that decision, they pursue it.

Louisiana decided that drilling for natural gas and oil made economic sense, and I applaud them. That is capitalism. We in Florida have decided that our natural resources and our beautiful beaches, which are the best in the world, and they are ranked the best in the world, year in and year out, we have made the economic decision that we want to do everything we can to protect those beaches.

So, if you want to talk about sort of disingenuousness or audacity, do not tell me that I do not love America because it does not make the economic sense in the State of Florida to drill in our wetlands as it does in Louisiana. If Alabama, Mississippi, Louisiana, Texas, and Alaska want to drill for oil, God bless them. That is what America is about, that is what the 10th amendment is about, that is what States' rights are about.

The State of Florida does not want to be Louisiana; it wants to be the State of Florida.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may concern.

Mr. Chairman, I might just briefly reply to the description of me as, I think, a lunatic, or the word lunacy. I do not like that word either; but, nevertheless, in his statement, it was the height of hypocrisy again when he is saying that they are already drilling for gas in Mobile Bay, we want that gas.

But, even more so, this is not about drilling; it is about an inadequate supply of gas to go into a pipeline that is being constructed. So why should we construct it, if we are not going to have the gas?

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, the question has been asked, why are we here? We really should be here not to talk about good politics. Possibly some of the proposals that have been put forth over the last couple of weeks have been good politics; but I can tell you, they are bad energy policy.

At the risk of being hit from all sides, I recently proposed a compromise that would comply with 100-mile limits for oil drilling. Technically the finger that comes up here on this map of Tract 181 is in Alabama waters and we should not be really interfering with that lease sale. The gentleman

from Alabama (Mr. CALLAHAN) is right in opposing the amendment and prohibiting the construction of this pipeline. Why do we need a pipeline if we ban gas development?

I proposed that we should prohibit oil drilling in this finger, and then allow natural gas to be extracted from all of Tract 181, which we need. We have an expected population increase of 29 percent in Florida by 2020, and the demand for natural gas to produce electricity will grow by 97 percent.

The United States Department of Energy report entitled ''Inventory of Power Plants in the United States'' revealed that during the next decade, 28 of 34 electrical generating plants planned for Florida are designed for natural gas.

Here is an article for a plant in New Smyrna Beach. It is 2 weeks old; that proposed power plant is gas-turbine generated. Here is another proposed power plant mentioned this past week in the Orlando Sentinel, it is also gas-turbine generated. Where are we going to get the natural gas?

You cannot have it both ways, and I think the gentleman from Alabama (Mr. CALLAHAN), by his provision, in banning this pipeline, is correctly raising serious energy policy questions. We must have good energy policy, but we cannot be dependent on bad politics to make good energy decisions.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member on the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I really do not have a dog in this hunt, coming from Wisconsin; but I simply want to observe that there has been a false parallelism in this debate between the idea that if you are going to prevent drilling off the coast of Florida, then somehow it makes sense to prevent the construction of this pipeline.

There is a big difference. The drilling has not occurred; the pipeline is already largely constructed. Secondly, there is no question that Florida is going to need the natural gas. So it seems to me that there is a false parallelism which should be dismissed by any neutral Members of the body.

Secondly, let's not kid anybody: this amendment is not being offered because of the merits of the amendment. This amendment is here because it is payback time. There are some people in this place who are unhappy with the fact that last week this House said, ''No, we are going to protect the beaches of Florida. The oil companies are not going to be able to drill any damn place they want. They are going to have to take other higher values into consideration.''

So, now people who are resentful of that are thinking it would be nice if you could tweak the Florida Representatives for standing up for their own environmental interests and make them pay a price for protecting their beaches from the money lust of the oil companies. That is basically what you are talking about.

So I think that any Member who does not have a dog in this hunt ought to recognize this amendment for what it is. It is a clever attempt at retaliation. I think the House is above that kind of thing, and I would urge that the amendment being offered by the gentleman today to remove this provision in the bill be adopted.

Any area has the right to protect its environmental resources. That is what Florida did last week, and the House ought to respect it.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I hardly ever disagree with my ranking member on appropriations, but I do not think this amendment is about retaliation. I think it is about a real energy debate we need to have here on this floor.

I agree, Florida probably does not want to become like Louisiana or Texas. I am worried that they want to become like California, where they do not want to produce. I am glad at least they want to pipeline sometimes, because that is not the case in California. Yet, when the price goes up, because our supplies are low, they want price caps and they complain about it.

I am worried about this, that if we do not adopt this amendment, if Florida recognizes you need to produce your resources, we will see a California in the southeastern United States, and we will have the same problem in the southeastern United States as we do in California.

We can produce. I have platforms offshore that are emitting zero pollution right now. Thirty years ago we did not have that; but today we have that, because we have different standards today. That can be done in the Gulf of Mexico, whether it is in Texas, Louisiana, Alabama, Mississippi, or Florida waters; and, frankly, it can be done off the coast of California.

So I am glad to be here to enjoy this energy debate. And it is not about retaliation. I think it is about energy that we need to talk about on this floor.

Mr. DAVIS of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Indian Rocks, Florida (Mr. YOUNG), distinguished chairman of the House Committee on Appropriations.

Mr. YOUNG of Florida. I thank the gentleman for yielding me time.

Mr. Chairman, several days ago I suggested to the House that this might be coming, this little bit of warfare between different delegations; and I had hoped that we would avoid that, because we have enough problems with our foreign suppliers. We have enough problems, that we do not need to have problems within our own country. The fact is that we do need more production of oil and gas, whatever types of energy we can produce. We are a consuming Nation, and we need to produce.

But most of the conversations today have not been about this amendment. I have enjoyed the debate, except for one part. I did not really appreciate the debate of the gentleman from Texas (Mr. DELAY) when he attacked the Florida delegation, because most of the Florida delegation has been there every step of the way to produce more energy at home, rather than relying on foreign sources. So I thought that attack was a little bit out of order.

However, the great debate about where we are to drill or not to drill has nothing to do with this amendment. This amendment merely strikes three lines out of the bill. Let me tell you what those lines are: ''Provided further, That none of the funds made available to the Federal Energy Regulatory Commission in this or any other Act may be used to authorize construction of the Gulf Stream natural gas project.'' That is the amendment, to strike that language.

Here is why we ought not to be so exercised with each other. The issues are these: the permits to authorize the construction of this pipeline have already been issued. You are not going to change that, unless you are going to change the basic law. You are not going to change that with this language.

The amendment of the gentleman from Florida (Mr. DAVIS) to strike this language is fine, and I am going to vote for it; but the fact of the matter is, this whole debate is really about nothing, because those permits have already been issued. It has been a good vehicle for the debate on the question of Lease 181 and the issue of who drills and who does not drill.

We have to be together on this. To divide this Congress, to divide this House over this issue, is not a smart thing to do. We need to calm down the rhetoric and need to get about becoming energy independent from the rest of the world.

Mr. DAVIS of Florida. Mr. Chairman, I yield 1½ minutes to the gentleman from Bradenton, Florida (Mr. MILLER.)

Mr. MILLER of Florida. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, for our distinguished chairman of the subcommittee, I thank him for referring to Sarasota. Those are my beaches in Sarasota. I have some of the most beautiful beaches in Florida on the west coast, Anna Maria, Longboat Key, Siesta; and I hope the gentleman brings his boat down to our area.

But I am also the base where the pipeline comes ashore in Manatee County, at Port Manatee. Just as it

leaves the gentleman's district, it comes ashore in my district and has a big economic impact. So I think we need to recognize the importance of the pipeline and its investors, who are spending over $1 billion on this pipeline. Now, if there was not enough gas, they would not be spending over $1 billion on this pipeline to build it from our two areas.

This issue was brought up in a manager's amendment on Monday which had something to do with Venice beaches, and I appreciate that in the manager's amendment last week when we addressed the issue of this pipeline.

So this is strictly about the pipeline. The investors, they are the ones putting the money at risk, so we do not even make that decision. We should go ahead with the pipeline.

With respect to 181, since I only have a few seconds left, I think we need to open that up for discussion. The gentleman from Florida (Mr. MICA) is right. There is plenty of gas there. I think we should drill for that gas. This was a 6-month delay. We kind of in Florida get caught between our Governor and our President, and I think there is room for compromise. I think there is a middle ground.

That is what we need to look for: move ahead, because we need the energy in our country, but let us not fight over this pipeline. The pipeline needs to go ahead, and it is going to be continued.

Mr. Chairman, I hope everyone votes for this amendment.

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I just want to make two points a little more clearly, and then I think we have had a thorough, hearty debate. The first is I wish I had the chart here today to show how many rigs have gone up, and I would submit can go up, hugging the coast of Louisiana and Texas, far removed from any chance of polluting the coast of Florida.

We have a supply out there, and we Floridians are willing to pay a fair price to consume the energy we need for our State. Again, we do not want to be trapped like California. We want competition. We want more than one pipeline. Adopting this amendment will help achieve that.

Let me finally say, just to put this in perspective, if we were to raise the CAFE standards by 14 miles per hour, that would generate 10 times more result than the entire amount of natural gas and crude oil in section 181.

Mr. Chairman, I yield the balance of my time to the gentleman from Florida (Mr. SCARBOROUGH).

□ 1145

Mr. SCARBOROUGH. Mr. Chairman, I thank the gentleman from Florida (Mr. DAVIS) for yielding to me.

This debate really has been about respect or the lack thereof of the people of Florida and their wishes. We have been called hypocrites, audacious, arrogant; implied as being unpatriotic, compared to Communist Chinese, all because last week some very powerful people, some very powerful corporations, were shocked by the outcome of the vote on the Davis-Scarborough amendment.

I think we have to go back to the issue of respect and respect the will of the people in my district, respect the people of the State of Florida, just like we need to respect the will of the people of Alabama, Mississippi, Louisiana, Texas and Alaska to determine their own fate. We are very close to Alabama, and what affects Alabama affects us. We need to work together.

Mr. Chairman, I yield back the balance of the time.

Mr. CALLAHAN. Mr. Chairman, I yield myself the balance of the time.

This has been an interesting debate, even though probably 90 percent of the time was spent on talking about an issue that is not even in the amendment. Maybe the gentleman from Florida (Mr. YOUNG) is right. Maybe this amendment will have no impact. I think he is wrong, because I think it is sending a message. They are talking about the parochialism of this issue with respect to the gentleman from Florida (Mr. SCARBOROUGH) and the gentleman from Florida (Mr. DAVIS).

Mr. Chairman, this is about my district. This pipeline originates in my district. What the gentleman from Florida (Mr. DAVIS) said is we are going to take all you are already extracting, because you have too much, and we are going to send it to Florida because they do not have any. He is right, except we do not have too much.

When we ship this natural gas out of the State of Alabama, our power rates are going to become competitive, and they go up. So that is not the issue. The issue is that I think that this issue was brought up at such a time that was inconvenient to the Alabama delegation to be here and defend themselves. They have apologized for that. We accept that apology.

I am saying this is an environmental issue, and the issue is whether or not we need to build a pipeline if we are not going to permit drilling. That is the issue. It is of keen interest to me and to the people of my State as well. All they talked about today in their selfish vision and their selfish manner is that this is going to hurt Florida. We are not going to have gas to air condition our homes. Do not do this to us. I am saying, it is going to impact Alabama as well. If the gentleman from Florida (Mr. YOUNG), the chairman of the committee, is right, and FERC would not have the authority to stop it, then there is no need for this debate.

If I want to stop it, I think I can stop it through the permitting process in the State of Alabama, which I might; if this amendment is adopted, that is probably what I will do. But I do not think this amendment is going to be adopted, and I know that some people have come up to me and said, SONNY, you would not retaliate and take some of my projects out in the conference committee that you have been so generous with in the past 3 or 4 or 5 weeks; that is not the case. I would not think of doing that.

Mr. Chairman, I will say that this is a project that is of great interest to me, and that I would like very much to defeat this amendment, and I would encourage my colleagues to vote ''no.''

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida (Mr. DAVIS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DAVIS of Florida. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by the gentlewoman from Nevada (Ms. BERKLEY), and the amendment offered by the gentleman from Florida (Mr. DAVIS).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MS. BERKLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Nevada (Ms. BERKLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 102, noes 321, not voting 10, as follows:

[Roll No. 204]

AYES—102

Abercrombie	Boswell	Dingell
Ackerman	Bryant	Doggett
Baca	Capps	Engel
Baldwin	Capuano	Evans
Becerra	Conyers	Ferguson
Berkley	Crowley	Filner
Berman	Davis (CA)	Frank
Blagojevich	Davis (IL)	Frost
Blumenauer	DeFazio	Gephardt

Gibbons
Gutierrez
Hall (OH)
Hastings (FL)
Hill
Hinchey
Holt
Honda
Hooley
Hulshof
Inslee
Israel
Jackson (IL)
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kucinich
Lantos
Leach
Lee
Lewis (GA)
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McInnis
McKinney
Meek (FL)
Menendez
Millender-McDonald
Mink
Moore
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pascrell
Rahall
Rangel
Reyes
Rivers
Roybal-Allard
Rush
Sanchez
Sanders
Sawyer
Schakowsky
Shays
Slaughter
Smith (NJ)
Solis
Souder
Stark
Stupak
Thompson (CA)
Towns
Udall (CO)
Udall (NM)
Velázquez
Waters
Watson (CA)
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—321

Aderholt
Akin
Allen
Andrews
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Bass
Bentsen
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Everett
Farr
Fattah
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
Matheson
McCrery
McDermott
McHugh
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Mica
Miller (FL)
Miller, Gary
Miller, George
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Saxton
Scarborough
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (WA)
Snyder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Traficant
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Barton
Burton
Houghton
Platts
Putnam
Ros-Lehtinen
Smith (TX)
Spratt
Thomas
Weldon (PA)

□ 1214

Messrs. SMITH of Washington, BILIRAKIS, HOLDEN, SANDLIN, GANSKE, GRAVES, RODRIGUEZ, SCOTT and SHERMAN, and Mrs. MYRICK and Mrs. BIGGERT changed their vote from ''aye'' to ''no.''

Messrs. STUPAK, KENNEDY of Rhode Island, SHAYS, BOSWELL, SOUDER, RANGEL, and HINCHEY and Ms. VELÁZQUEZ changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. DAVIS OF FLORIDA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. DAVIS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 210, noes 213, not voting 10, as follows:

[Roll No. 205]

AYES—210

Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Becerra
Berkley
Bilirakis
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Buyer
Camp
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Conyers
Costello
Cox
Coyne
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Diaz-Balart
Dingell
Doggett
Dooley
Doyle
Ehlers
Ehrlich
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Foley
Ford
Frost
Ganske
Gephardt
Gilchrest
Gonzalez
Goss
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Jones (NC)
Jones (OH)
Kaptur
Keller
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (FL)
Moore
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Royce
Rush
Sanchez
Sanders
Sandlin
Sawyer
Scarborough
Schakowsky
Schiff
Scott
Serrano
Shaw
Shays
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stearns
Stenholm
Strickland
Stupak
Sununu
Tauscher
Taylor (MS)
Thompson (CA)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Wexler
Woolsey
Wynn
Young (FL)

NOES—213

Abercrombie
Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bass
Bentsen
Bereuter
Berman
Berry
Biggert
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Brown (SC)
Bryant
Callahan

Calvert
Cannon
Cantor
Capito
Chabot
Chambliss
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Cramer
Crane
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLay
DeMint
Dicks
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Everett
Farr
Ferguson
Flake
Fletcher
Forbes
Fossella
Frank
Frelinghuysen
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Manzullo
Markey
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Gary
Miller, George
Mink
Mollohan
Moran (KS)
Murtha
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Roukema
Roybal-Allard
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Souder
Spence
Stark
Stump
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Visclosky
Vitter
Walden
Walsh
Wamp
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Young (AK)

NOT VOTING—10

Barton
Burton
Gilman
Houghton
Platts
Putnam
Ros-Lehtinen
Smith (TX)
Thomas
Weldon (PA)

□ 1226

Messrs. TAYLOR of North Carolina, KERNS, HOLDEN, SCHROCK and FORBES and Ms. EDDIE BERNICE JOHNSON of Texas and Mrs. BIGGERT changed their vote from ''aye'' to ''no''.

Mr. BUYER and Mr. HALL of Texas changed their vote from ''no'' to ''aye''.

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. ROS-LEHTINEN. Mr. Chairman, on rollcall No. 205, I was unavoidably detained. If present, I would have voted "aye" on rollcall No. 205.

Mr. GILMAN. Mr. Speaker, earlier today, I was unavoidably delayed during the vote on the Davis Amendment to H.R. 2299. Accordingly, I was unable to vote on rollcall No. 205. If I had been present I would have voted "aye." I ask unanimous consent to have my statement placed in the RECORD at the appropriate point.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the ''Energy and Water Development Appropriations Act, 2002''.

Mr. BENTSEN. Mr. Chairman, I rise in qualified support of H.R. 2311, the FY 2002 Energy and Water Appropriations bill.

When the Budget Committee, on which I serve, considered the President's proposal and produced a budget, I knew it was going to be very hard for Congress to fund many important water transportation and flood control projects. I recognize the incredibly difficult circumstances Chairman SONNY CALLAHAN and Ranking Member PETER VISCLOSKY have endured in crafting this bill. I would also like to thank my good friend from Texas, Mr. EDWARDS, a distinguished Member of the Subcommittee, for all the help and information he and his office have provided me.

In light of the dramatic budget cuts proposed for the Corps, I applaud the Subcommittee for funding the Brays Bayou flood control project at the Harris County Flood Control District's capability—$5 million. When completed, the Brays Bayou project will be a national model for local control, community participation, flood damage reduction in a heavily populated urban watershed, and the creation of a large, multi-use greenway/detention area on the Willow Waterhole tributary. The Brays project is a demonstration project for a new reimbursement program initiated by legislation I authored along with Mr. DELAY that was included in Section 211 of WRDA 1996. The program gives local sponsors more responsibility and flexibility, resulting in projects more efficient implementation in tune with local concerns.

I am very encouraged that the Brays project is on track to be fully funded at $5 million in Fiscal Year 2002, rather than $4 million, as the Administration suggested. The project will improve flood protection for an extensively developed urban area along Brays Bayou in southwest Harris County including tens of thousands of residents in the flood plain, the Texas Medical Center, and Rice University. The entire project will provide three miles of channel improvements, three flood detention basins, and seven miles of stream diversion resulting in a 25-year level of flood protection. Current funding is used for the detention element of the project. Originally authorized in the Water Resources Development Act of 1990 and reauthorized in 1996 as part of a $400 million federal/local flood control project, over $20 million has already been appropriated for the Brays Bayou Project.

However, besides the admirable consideration the Subcommittee has given Brays Bayou, I believe this bill is spread too thin as a result of the extreme position taken by the Administration on the Army Corps of Engineers Construction account, which was slated to be cut $600 million. Instead, my colleagues have lowered that cut to $70 million below the 2001 level. When I introduced an amendment to remedy this in the mark-up of the budget, I warned that Congress would not stand for such a large shortfall affecting public safety and navigational water projects. I am relieved that much of the proposed cut was restored, and I commend the Chairman and ranking Member for their effort.

I appreciate that the Committee saw fit to fully fund the Administration's request for the Sims Bayou project. Unfortunately, the Administration did not request the full amount the Corps says is necessary to keep the project on schedule. My constituents are adversely affected by delayed work on the Sims Bayou. According to the Galveston District of the Corps, without funding the full $12 million capability of Corps for Sims, construction will fall behind schedule. This funding is needed because of the great risks people have faced and will continue to face until completion of the project in this highly populated watershed. The need was illustrated when Tropical Storm Allison caused great damage to thousands of homes in this watershed several weeks ago.

The project is necessary to improve flood protection in the extensively developed urban area along Sims Bayou in southern Harris County. The Sims Bayou project consists of 19.3 miles of channel enlargement, rectification, and erosion control and will provide a 25-year level of flood protection. Before the funding shortfall, the Sims Bayou project was scheduled to be completed two years ahead of schedule in 2009. We cannot be confident of that prediction unless Sims funding is raised to $12 million in the Senate version and the Conference Report.

Flood control projects are necessary for the protection of life and property in Harris County, but improving navigation in our Port is an integral step for the rapid growth of our economy in the global marketplace. Therefore, Mr. Speaker, I am disappointed that this legislation provides only $30.8 out of the needed $46.8 million for continuing construction on the Houston Ship Channel expansion project. When completed, this project will generate tremendous economic and environmental benefits to the nation and will enhance one of our region's most important trade and economic centers.

The Houston Ship Channel, one of the world's most heavily-trafficked ports, desperately needs expansion to meet the challenges of expanding global trade and to maintain its competitive edge as a major international port. Currently, the Port of Houston is the second largest port in the United States in total tonnage, and is a catalyst for the southeast Texas economy, contributing more than $5 billion annually and providing 200,000 jobs.

The Houston Ship Channel expansion project calls for deepening the channel from 40 to 45 feet and widening it from 400 to 530 feet. The ship channel modernization, considered the largest dredging project since the construction of the Panama Canal, will preserve the Port of Houston's status as one of the premier deep-channel Gulf ports and one of the top transit points for cargo in the world. Besides the economic and safety benefits, the dredged material from the deepening and widening will be used to create 4,250 acres of wetland and bird habitat on Redfish Island. I want to take this opportunity to urge those who will be conferees on this legislation to fund the Port of Houston project to its capability. This project is supported by local voters,

governments, chambers of commerce, and environmental groups.

I thank all the subcommittee members, the Chairman, the Ranking Member, and especially Representative EDWARDS for their support and their work under tough budgetary circumstances.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 2311, the fiscal year 2002 energy and water appropriations bill. I commend the committee's distinguished Chairman, Mr. CALLAHAN for his diligence and work on this important fiscal year 2002 appropriations bill.

H.R. 2213 is an important appropriations measure that funds our Nation's waterways, flood control, and irrigation infrastructure, as well as various important programs administered by the Department of the Energy.

Included in this measure is $100,000 for the Ramapo-Mahwah flood control project. This project involves the construction of features for flood protection along the Ramapo and Mahwah Rivers in Mahwah, New Jersey and Sufferen, New York. Flooding has occurred frequently over the past 33 years, causing extensive damage. Accordingly, the inclusion of this funding will provide the Army Corps with the funding necessary to proceed forward with the first-step to initiate a refinement of the project's cost.

Moreover, H.R. 2213 includes an appropriation of $3 million for the New York City Watershed Protection Program. Nine million New Yorker's receive their drinking water from the New York City watershed. Accordingly, it is imperative that public health and environmental concerns be addressed along the New York City watershed. This appropriation will provide assistance for New York State for the design and construction of water supply, storage, treatment and distribution facilities, and surface water resource protection and development projects.

Accordingly, I urge all of my colleagues to support this important bill.

Mr. NUSSLE. Mr. Chairman, I rise in favor of H.R. 2311, making appropriations for energy and water development for fiscal year 2002. This bill is consistent with the levels set forth in the budget resolution and complies with the Budget Act.

H.R. 2311 provides $23.7 billion in discretionary budget authority and $24.9 in outlays for the Department of Energy, the Bureau of Reclamation and various independent agencies.

This is a straightforward bill that neither designates emergencies nor provides advanced appropriations. The bill also does not rescind any previously enacted budget authority.

The bill is within the 302(b) allocation of the Appropriations' Subcommittee on Energy and Water. It therefore complies with section 302(f) of the Congressional Budget Act, which prohibits consideration of appropriations measures that exceed the appropriate subcommittee's 302(b) allocation.

On this basis, H.R. 2311 is worthy of our support.

The CHAIRMAN. Under the previous order of the House, no further amendments are in order.

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. BIGGERT) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, pursuant to House Resolution 180, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 15, not voting 13, as follows:

[Roll No. 206]

YEAS—405

Abercrombie
Ackerman
Aderholt
Akin
Allen
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
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
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
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
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
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
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
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)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—15

Andrews
Berkley
Flake
Gibbons
Hostettler
Moran (KS)
Paul
Royce
Scarborough
Schaffer
Sensenbrenner
Shays
Stearns
Tancredo
Thune

NOT VOTING—13

Barton	Houghton	Smith (TX)
Burton	McCollum	Thomas
Davis (FL)	Platts	Weldon (PA)
Doggett	Putnam	
Gutierrez	Ros-Lehtinen	

□ 1245

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2180

Mr. FERGUSON. Madam Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 2180.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2330, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. HASTINGS of Washington. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 183 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 183

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI are waived. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

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

Madam Speaker, House Resolution 183 is an open rule providing for consideration of the bill H.R. 2330, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2002.

The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. The rule further provides that the bill shall be read for amendment by paragraph, and that the amendment printed in the report of the Committee on Rules accompanying the rule shall be considered as adopted.

The rule waives all points of order against provisions in the bill, as amended, for failure to comply with clause 2 of rule XXI, prohibiting unauthorized or legislative provisions in a general appropriations bill.

Finally, the rule allows the chairman of the Committee of the Whole to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, and provides one motion to recommit with or without instructions.

Madam Speaker, H.R. 2330 appropriates $74.2 billion in fiscal year 2002 budget authority for agriculture and related programs through the Department of Agriculture and other agencies. This figure is $2.4 billion less than last year's appropriations, but $234 million more than the President's request.

The bulk of the spending goes to food stamps, $22 billion; the Food and Drug Administration, $1.2 billion; child nutrition programs, $10.1 billion; supplemental nutrition for Women, Infants and Children, $4.1 billion; and the Federal Crop Insurance Program, $3 billion.

In addition, this bill provides $1 billion for the Agriculture Research Service; $720 million for the Food Safety and Inspection Service; and $946 million for the Farm Service Agency.

Madam Speaker, I am particularly pleased that the Committee on Appropriations has included $150 million for market loss payments for America's apple growers. As a representative of the number one apple-producing district in the Nation, I am acutely aware of the devastating losses sustained by apple growers in the past year.

In our area, for example, countless warehouses, packing houses and other apple-related businesses have either shut down, declared bankruptcy, or downsized dramatically. In county after county, growers find that it costs substantially more to produce a box of apples than the market will pay to buy it.

And, unlike many farms that can easily switch crops when prices are down for one commodity, apple growers cannot simply pull up their orchards and grow something else for a few years until apple prices go back up again. In the face of unfair competition from China and other Asian nations, our growers have few tools with which to fight back.

Apple growers are an unusually independent breed. They have suffered ups and downs of the market for years without asking for any kind of Federal assistance that has long been common to other types of commodities and farming. But never before have we suffered the kinds of losses we are experiencing right now. For that reason, I would like to commend the gentleman from Florida (Mr. YOUNG) and the gentleman from Texas (Mr. BONILLA) and their colleagues on the Committee on Appropriations for recognizing the dire situation in apple country and for providing this much-needed assistance.

Madam Speaker, this is a fair bill. It funds a number of high-priority programs while cutting out wasteful, unnecessary and duplicative spending. Accordingly, I urge my colleagues to support both this open rule and the underlying bill, H.R. 2330.

Madam Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Madam Speaker, I yield myself such time as I may consume, and I thank the gentleman from Washington (Mr. HASTINGS) for yielding me the customary time.

Madam Speaker, this is an open rule. It has everything to do with the bill that makes appropriations for the Department of Agriculture and other related agencies for fiscal year 2002. As my colleague from Washington described, this rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

This allows germane amendments under the 5-minute rule. This is the normal amending process in the House. All Members, on both sides of the aisle, will have the opportunity to offer amendments that do not violate the rules for appropriations bills.

Madam Speaker, this is generally a good bill that serves America's farmers as well as the poor and hungry in this land. And I commend the ranking Democrat, the gentlewoman from Ohio (Ms.

KAPTUR), and the gentleman from Texas (Mr. BONILLA), the chairman of the agriculture appropriations subcommittee, for their work. They have done a fine job working with funding levels that are too low for their important jobs.

The bill funds child nutrition programs at a rate slightly higher than last year. It also increases funding for the food stamp program and gives a small boost to food banks. Funding for the WIC program, which feeds mothers and their children, is given a small increase over last year. Unfortunately, this increase is insufficient to meet the demand for this popular program. Monthly participation is exceeding the administration's projections, which will result in an estimated 100,000 to 200,000 eligible people not being served.

I am disappointed with the actions of the Committee on Rules which failed to make in order an amendment by the gentlewoman from Ohio (Ms. KAPTUR) to fund the Global Food for Education Initiative, which is commonly known as the Global School Lunch Program.

Here in this country, the school lunch program has been one of the most successful nutrition programs. A hungry child faces an extra challenge in school. This program promotes education by making sure that each day all children receive at least one nutritious meal.

What works in the United States ought to work around the world. If we believe in education for children, we should promote this program. Also, this is a great help to our farmers, and it is being championed by former Senators George McGovern and Bob Dole.

During consideration of this measure by the Rules Committee last night, I offered a motion to permit the gentlewoman from Ohio (Ms. KAPTUR) to offer her amendment to fund the Global School Lunch Program. The amendment was defeated on a straight party-line vote, with Democrats supporting the program and Republicans opposing it.

The gentlewoman from Ohio's (Ms. KAPTUR) amendment could not be accepted because it went over budget. However, at the same time, this same Committee on Rules approved an amendment that will add $150 million over the budget to pay apple growers.

The Rules Committee also denied a request by the gentlewoman from Connecticut (Ms. DELAURO) to offer an amendment to increase food safety inspections. Food imports are increasing; yet funding for food inspectors is not adequate to keep pace. This amendment, which is important to our health and safety, should have been made in order.

Madam Speaker, I do not agree with these priorities. I support the bill, but I cannot support the rule that turns down these amendments that I just talked about.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield as much time as he may consume to the gentleman from Texas (Mr. BONILLA), the chairman of the subcommittee.

Mr. BONILLA. Madam Speaker, I thank the gentleman from yielding me this time, and I thank the ranking member, the gentlewoman from Ohio (Ms. KAPTUR), for her hard work. It has been a long, tough road for many of us; but in the end I think we can proudly say this is a bipartisan bill.

Madam Speaker, I rise in strong support of the rule, and in strong support of the bill that will follow. This is a good, bipartisan bill. I have worked strongly and consistently as chairman of this subcommittee to try to be inclusive, working closely with every Member on both sides of the aisle to try to address as many of the issues as we possibly could in putting this bill together.

Our subcommittee heard many hours of testimony in previous days to get to this point. Many of the hours we spent listening to witnesses involved food safety, and that is something that both of us have worked on, the gentlewoman from Ohio (Ms. KAPTUR) and I, to address these issues. There is great concern in the communities about the threats that exist from diseases that are now prevalent in other countries, primarily in Europe, that many of us are concerned about. Livestock producers, especially with the threat of foot-and-mouth disease and mad cow disease, are concerned, and we have addressed many of these concerns.

We have worked in a bipartisan way to increase the number of inspectors for the Food and Drug Administration to give them more resources to do their job. All of the inspection accounts that are important to keep our food supply and our industry safe from threats from abroad we have addressed in a strong way, and I think I speak for every member of the subcommittee as well, who would agree.

□ 1300

It has been a tough road as well because we have received over 2,500 individual requests for projects from individual Members around the country. We have done our best to try to take care of everyone that we possibly could.

The gentleman from Ohio (Mr. HALL) mentioned the reference to an amendment involving apples. We know that apple producers are facing a tremendous problem right now in trying to deal with some adverse conditions that they are faced with. This was an amendment presented by our good friend, the gentleman from New York (Mr. HINCHEY), who has worked very hard on this issue; and this amendment has bipartisan support.

Honestly, the Members know that we have tried to keep these authorizing issues and new programs off of our appropriations bill; but in this case, the committee worked its will. And we have this program in this bill. We know that there will be some contentious times in trying to deal with this as we move through this bill, but we expect to do that.

All in all, I think we can all stand up and say we are proud of what we have accomplished here. The Committee on Rules has also worked very hard to deal with some of the problems in moving this bill to the floor. Again I want to thank the gentleman from Washington (Mr. HASTINGS), the gentleman from California (Mr. DREIER), and all the members of the Committee on Rules for taking a lot of time and energy to get us to this point and hope that, in a bipartisan way, we can support the rule and the bill.

Mr. HALL of Ohio. Madam Speaker, I yield 3½ minutes to the gentlewoman from Ohio (Ms. KAPTUR), who has been a great proponent and advocate for hungry people all over the world and in her own country.

Ms. KAPTUR. Madam Speaker, I thank the esteemed ranking member for yielding time to me on this rule on our agriculture appropriation bill for the year 2002. Let me say that it has been a pleasure to work with our new chairman, the gentleman from Texas (Mr. BONILLA). We think we have perfected the bill as it has moved through subcommittee and full committee. Nonetheless, I must rise reluctantly to oppose this rule.

We did go before the Committee on Rules to try to get the permission to offer amendments here on the floor today. We were refused. I wanted to go through a few of those amendments that we believe are worthy and would make this a much better bill.

Probably one of the most important is the Global Food for Education initiative inspired by the work of Senators Bob Dole and George McGovern. It takes our school lunch program from this country and extends its concept abroad, using food to help over 9 million needy children in 38 countries to both promote their education and help them develop fully by having decent nutrition. We very much want to continue this program. We really believe that we allowed ourselves to become bottled up by artificial budget rules that prevented us from going on record to do what is right in this current bill. We would very much like to have this Global Food for Education program extended directly by Congress as a part of the regular order in this appropriation bill.

The gentlewoman from Connecticut (Ms. DELAURO) will probably be speaking against the rule soon on the question of food safety and improved food inspection. On the surface, the bill before us looks like it provides more

money for those needs, but it almost only pays costs to staff to hold on to what we have. Can anyone here really accept the fact that the Food and Drug Administration can barely inspect 1 percent of the products coming across our borders every day? That means 99 percent of imported product is not tested. Is that the gold standard of safety we hear so much about? And can we really believe that we have the information on the testing of practices like irradiation and enhanced food safety standards? No. In fact, in the subcommittee bill, we were able to get language on irradiation to do the kind of baseline studies that are necessary to assure irradiated food safety to consumers, but then those were stripped at the full committee level.

In the area of biofuels funding, the Bush administration has made over 100 recommendations to try to help America move forward and become more energy independent, but not a single one of those recommendations asks the Secretary of Agriculture to do anything. Yet we know that ethanol and biofuels and fuels based on biomass are in our sustainable energy future and that the Department of Agriculture should not be exempt from this important national challenge.

Finally, in the area of 4–H, we will be offering an amendment here on the floor to try to provide some of the initial funding for the measures that were passed here in the House this past week and in the Senate last week to celebrate the anniversary of 4–H. Let us put the money that is in the authorizing bill in this appropriation bill so that, in fact, there is no lapse of time.

For all these reasons, I do oppose the rule and look forward to the debate on the bill as the afternoon proceeds. I thank the gentleman from Ohio for yielding me the time and the committee for allowing me this opportunity to speak against the rule.

Mr. HASTINGS of Washington. Madam Speaker, I am pleased to yield 5 minutes to the gentleman from Iowa (Mr. NUSSLE), the distinguished chairman of the Committee on the Budget.

Mr. NUSSLE. Madam Speaker, I wish to engage in a colloquy with the gentleman from Florida (Mr. YOUNG), the very distinguished chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Madam Speaker, I would be pleased to enter into such colloquy with the gentleman from Iowa.

Mr. NUSSLE. I thank the gentleman.

It is my understanding that upon adoption of the rule, the appropriations bill will exceed the Subcommittee on Agriculture and Rural Development's 302(b) allocation by $150 million.

Mr. YOUNG of Florida. I would say to the gentleman that his understanding is correct. The gentleman from Texas (Mr. BONILLA), the chairman of the subcommittee, developed a bill that was within its 302(b) allocation as set by the Committee on Appropriations. However, the bill as reported from the committee included an amendment, which I opposed, by the way. This amendment included additional spending that really should be mandatory and under the jurisdiction of the Committee on Agriculture. However, the Committee on Appropriations adopted this amendment, which would provide an additional $150 million in emergency funding to assist apple producers.

Some Members expressed concern over the emergency designation, which in effect would increase spending above the level assumed by the budget resolution, so that designation will be eliminated from the bill by the rule before us at the present time. As a result of this action, the total funding in this bill will be $150 million over the 302(b) allocation. However, the Committee on Appropriations has not exceeded our 302(a) allocation as set by the Committee on the Budget.

I want to assure the gentleman from Iowa and Members that it was not the intent and it is not the policy of the Committee on Appropriations to present a bill that is in excess of its allocation. It is simply the fact that after extensive discussions with the leadership, the Committee on Agriculture, and the Committee on the Budget, it was determined that the most expeditious way to resolve the matter and get this bill on the floor was the elimination of the emergency designation.

Mr. NUSSLE. It is my further understanding that the Committee on Appropriations will increase the subcommittee's 302(b) allocation to the level provided by this bill and adjust the 302(b) allocations for other subcommittees by an offsetting amount.

Mr. YOUNG of Florida. Madam Speaker, the gentleman's understanding is correct. It is the intent of the Committee on Appropriations to address this matter the next time it meets to consider revisions to the allocations by increasing the 302(b) allocation for this bill to a level equal to the amount this bill as passed by the House and to reduce other allocations for outstanding bills by the same amount.

The committee does not intend a wholesale reprioritization of the budget to address this matter. We are also somewhat limited in our options because we have already passed three bills out of the House. It is not the intent of the Committee on Appropriations to reduce the 302(b) allocations of bills previously passed by the House to accommodate this spending in the agriculture bill.

However, this does not mean the committee is precluded from a later reallocation as we work on these bills with the Senate during conference deliberations. Further, I would say to the gentleman from Iowa that it is my intention that the defense allocation will be preserved and maintained. Defense will be made whole. We will ensure that the allocations are adjusted to be in conformance with the Budget Act and that our bills are consistent with their allocations. I want to assure the gentleman that we will fully abide by the provisions of the Budget Act.

Mr. NUSSLE. Madam Speaker, I thank the gentleman for his clarification of this matter.

Mr. HALL of Ohio. Madam Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. I thank the gentleman for yielding me the time.

Madam Speaker, I think that overall there are many things to commend this bill, but I think there are a number of serious omissions which the House ought to deal with before we pass the bill on to the Senate. To express those concerns, I intend personally to vote against the rule although I will probably, unless something unforeseen happens, support the bill on final passage.

First of all, I believe that we have something approaching a national crisis with respect to public confidence in the safety of the food that we import and that we consume. All of us have seen story after story about the outbreak of serious disease associated with consuming food. We have had over 5,000 Americans die last year from food borne illness.

I saw a horror story a few days ago about the fact that a number of people in South Dakota and Minnesota had gotten deathly ill because they had consumed ground beef that contained ground-up animal thyroids. Those thyroids in the past had not been included in the food supply. But because we now have synthetic thyroid drugs, those animal thyroids are no longer used to the extent they were before to make thyroid medicine and so one meatpacking plant had simply ground the thyroid up with the rest of the animal. The result was that a good many people got deathly sick.

We have seen a lot of other examples. If we take a look at what the FDA has to say about the adequacy of our inspection system for foodstuffs that come into the United States, for instance, we see that they inspect less than 1 percent of everything that is imported into this country. We believe that that constitutes a true crisis. I think that if we do not act on this crisis, it will hurt not only consumers but the very farmers that many of us represent, because farmers depend on a high level of consumer confidence in order to be able to sell their products.

And while there is no question that our food supply is among the safest in the world, we still have a lot of problems that could be taken care of if we

put the needs of food safety, for instance, ahead of the needs of the wealthiest 1 percent of the people in this country to get a $53,000 tax cut next year. We have some choices to make, and we are being prevented from making them by the choices that were already made by this House on the tax bill.

We also have the question about whether or not WIC is being funded adequately. It certainly appears to me that the funding level in this bill is not adequate. Yet we are not, under the rule, going to be allowed to do anything about that.

And then, thirdly, we have the effort that we tried to make in the full committee to take surplus food which we have in this country and make it available to children around the world. We have a program at USDA that did that last year; and we have been urged by Senator George McGovern and Senator Bob Dole, two people, who in the history of this Congress on a bipartisan basis have forgotten more about nutrition programs than most of us have ever learned, they both urge us to continue this program. USDA will not get off the dime and make up their mind one way or another. We tried to get that done as well in this bill and were blocked procedurally from doing so.

□ 1315

So for these reasons, it seems to me that we ought to vote down this rule and bring back a rule that will allow us to recognize a legitimate crisis with respect to public confidence in the safety of our food supply, and also allow us to address the other two issues that I have mentioned here today.

So I would urge a no vote on the rule so that we can get a better rule under which to debate this otherwise fairly constructive bill.

Mr. HASTINGS of Washington. Madam Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. LATHAM), a member of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies.

Mr. LATHAM. Madam Speaker, I thank the gentleman from Washington (Mr. HASTINGS) and very much appreciate him yielding me the time.

Madam Speaker, first of all, I want to thank the Committee on Rules for a fair, open rule and for their work. This will bring this bill to the floor in a manner that will open debate and bring out a lot of different points of view. I appreciate it very much.

I also want to thank the chairman of the subcommittee, the gentleman from Texas (Mr. BONILLA), for a great job that he has done and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR), for all the work and cooperation that we have seen on both sides. The staff on this bill has done a tremendous job and their efforts are very much appreciated.

This is a bipartisan bill and it is brought to the floor with, I think, agreement that the real needs of the agriculture community, of the people who are needing assistance for food, is met and that it is a bill that I think we can all support in the House.

There are a couple items that I am very pleased that were included. One is funding for the National Animal Disease Center in Ames. This is in response to real concerns that we have with foot and mouth disease; mad cow disease; those types of problems that can be devastating to our livestock industry; and also for food safety for Americans. Also, they have increased the funding for the AgrAbility program, something that is very dear to me. What this program does is help people continue to farm even with disabilities, and the level of $4.6 million in this bill for this very important program is very much appreciated.

This bill funds our research in a manner that agriculture is desperately in need of, new opportunities, new ways of adding value to our products. The way to do that is through research. So I am very pleased with the emphasis that the chairman has put on research.

Also, a key element for the Department is food safety. I am very pleased that the FDA has increased funding of $115 million to a level of $1.18 billion. That is the largest increase in history. The Food Inspection Service has an increase of $25.4 million, raising that total to $720 million, also a very substantial increase to meet the needs that we have to provide not only the best quality food but the safest food anywhere to be found in the world.

So, again, I ask Members to support this rule, support this bill. It is good for agriculture. It is good for all of our citizens.

Mr. HALL of Ohio. Madam Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Madam Speaker, I rise in opposition to the rule. It busts the budget caps. There has been a double standard applied to some programs within this bill, and I was fully supportive of the assistance to apple growers in this country, because I think it is the right thing to do to help an industry out when they need that help.

On the other hand, what they have done here with the Committee on Rules is they have made an exception for one emergency and have said no to all other emergencies that face American families. Whether it is family farmers facing the loss of their family farms, whether it is biodiesel fuels, Meals on Wheels, low-income nutrition assistance, we have emergencies that we need to address. We just cannot pick and choose which ones we want and which ones are politically advantageous.

Specifically, this rule blocks an amendment that I brought to the committee to provide urgent emergency funds to address the food safety crisis. Americans are more likely to get sick from what they eat today than they were a half century ago, and the outbreak of food sickness is expected to go up by as much as 15 percent over the next decade. Each year, some of my colleagues have mentioned this already, 5,000 Americans die from foodborne illnesses, 76 million get ill and 325,000 are hospitalized. Just 2 days ago, the Excel Corporation recalled 190,000 pounds of ground beef and pork because of the possible contamination by deadly E. Coli in Kentucky, in Tennessee, in Georgia. Sara Lee pled guilty to selling tainted meat that was linked to a nationwide listeriosis in 1998 that killed 15 people. Grocery stores are afraid that their fruit is unsafe to sell.

Lest one thinks that these are things that I just made up, we have a number of headlines from recent news: A Big Recall of Meat Amid E. Coli Fears; Sara Lee Fined in Meat Recall Linked to 15 Deaths; USDA Blamed in Slaughter Violations; Grocers Demand Produce Inspections; Contaminated Food Makes Millions Ill Despite Advances.

Experts like Joe Levitt from the FDA are telling the press that, quote, we do have a real problem. To address this problem, I asked the committee to allow an amendment to provide $213 million in emergency funds, $90 million to increase inspection of imported foods from 1 to 10 percent, $73 million for over 600 new inspectors to inspect all high-risk and domestic firms twice a year and all other domestic firms every 2 years, and $50 million for the food safety and inspection service to ensure the implementation of new food safety procedures to strengthen our food safety efforts.

The Food and Drug Administration inspects all food except meat, poultry, and eggs. They inspect fruit juices, vegetables, cheeses, and seafood. These foods are the sources of 85 percent of food poisoning; and last year, recalls of FDA-regulated products rose to 315, the most since the mid-1980s, and 36 percent above the average.

FDA inspects less than 1 percent of imported food that comes into the United States, and this is a market that has expanded from 2.7 million items coming in to our country to 4.1 million items, and that increase has happened in just the last 3 years.

In the domestic market, the FDA inspects high risk firms no more than once a year and other firms are inspected only once in 7 years.

The FDA has only 400 people to inspect all domestic food, and we have 30,000 domestic food producers and food plants in the United States. They have less than 120 people to inspect imported food. Food Safety and Inspection Service has held public hearings on a wide

range of issues: procedures for imported food, risk management, emergency outbreaks. We know what has happened in Europe with foot and mouth. We know about the threat of mad cow. It is vital that the FSIS has the resources it needs. American families should be able to go out to dinner, to buy food, and not be fearful that they or their children or their families are going to be in jeopardy.

In the 1920s, Upton Sinclair wrote in a novel, The Jungle, he highlighted the abuses of the meat packaging industry. It brought a wave of reform in this country. We need to move forward on food safety, not to move backward to the days that Sinclair wrote about. This is about providing the agency that is responsible for protecting our food supply, give them the resources to have the inspectors that they need in order that Americans will be safe.

I urge my colleagues to oppose this rule.

Mr. HASTINGS of Washington. Madam Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. NUSSLE), the distinguished chairman of the Committee on the Budget.

Mr. NUSSLE. Madam Speaker, I rise to support the rule and to speak in favor of H.R. 2330, providing appropriations for agriculture and related agencies. As reported by the Committee on Appropriations, this bill is technically consistent with the budget resolution and complies with the Congressional Budget Act. As the chairman of the Committee on the Budget, I wish to report to my colleagues that H.R. 2330 provides $15.7 billion in budget authority and $15.97 billion in outlays for fiscal year 2002. The bill does not provide any advanced appropriations.

As reported, the bill also designates $150 million in emergencies, which increased both the levels of the budget resolution and the caps by the same amount. It also rescinds $3.7 billion, but this rescission produces no savings in outlays. As reported by the Committee on Appropriations on June 27, the bill does exceed the Subcommittee on Agriculture, Rural Development, Food and Drug's 302(b) allocation. Therefore, it does not violate section 302(f) of the Budget Act, which prohibits the consideration of appropriation legislation that exceeds the reporting subcommittee's 302(b) allocation.

Members may be aware that I am concerned and have been concerned that the reported bill designates $150 million as an emergency for the purpose that is already accommodated in the budget resolution. This designation had the effect of increasing the levels of the budget resolution and the statutory caps by the same amount. The budget resolution clearly anticipated the need for additional agricultural assistance by increasing the Committee on Agriculture's allocation by $5.5 billion in fiscal year 2001.

Indeed, earlier this same week, the House passed a bill that provided that same $5.5 billion in agricultural emergency assistance. That bill provided $169 million for the producers of specialty crops. In addition, the budget resolution provided another $7.3 billion of agriculture spending in fiscal year 2002 and included a procedure that could increase the total to as much as $63 billion. The Committee on Agriculture is free to use that portion and allocation as it sees fit for specialty crops.

While I continue to have concerns about the emergency designation, the chairman of the Committee on Appropriations and I have agreed, and we just shared that colloquy on the floor a moment ago, that the designation would be stricken by this rule and that the bill would be protected from resulting points of order.

Furthermore, the gentleman from Florida (Mr. YOUNG) agreed that the Committee on Appropriations would revise its 302(b) allocations and reflect the fact that the bill would be offset by other appropriation bills. It was further agreed that the offsets would not come out of the bills that have already passed the House or bring Defense below the levels of the President's budget submission. The gentleman from Florida (Mr. YOUNG) is a man of his word. He has done his best in bringing this bill to the floor, as has the gentleman from Texas (Mr. BONILLA).

In view of the good faith comments of the gentleman from Florida (Mr. YOUNG) and commitments in this regard, I urge Members not only to support the bill but to support the rule.

Mr. HALL of Ohio. Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. LAHOOD), my distinguished colleague and classmate.

Mr. LAHOOD. Madam Speaker, I thank the gentleman from Washington (Mr. HASTINGS) for yielding me the time.

Madam Speaker, I want to pay my compliments to the chairman of the committee, the gentleman from Texas (Mr. BONILLA) and his staff and also to the gentlewoman from Ohio (Ms. KAPTUR) and the staff on the Democratic side for putting together a good bill. I think there is no doubt that every Member that is on the subcommittee, of which I am the newest Member, believes that this is a good bill. Even though there are some who believe that the rule did not allow for some consideration of opportunities to solve some problems, many of those problems were discussed in the subcommittee and many amendments were offered. As many amendments as people wanted to offer were able to be offered, thanks to the chairman. I know that the ranking member, the gentlewoman from Ohio (Ms. KAPTUR) offered many amendments, some of which were adopted, some of which were not. Other Members had the same opportunity.

So this notion that this is not a good rule because some people do not have the opportunity, those opportunities were provided to the subcommittee Members, and there was a full debate on many of these issues. Although I am a new member of the subcommittee, I am certainly not new to the issues of agriculture. During the last 6 years, and I have been a member of the agricultural authorization committee and I have worked very hard with many Members, including some who are in the Chamber today, on agricultural issues, in trying to solve agricultural problems.

Agriculture is in a recession. This bill helps agriculture in solving many of the problems that we have with respect to the recession that currently exists.

□ 1330

A big piece of this bill has to do with research. I agree with the gentleman from Iowa when he says that research is about the future of agriculture. It is also about the future of how we get agriculture out of the recession that agriculture is currently in.

I have an agriculture research lab in my hometown of Peoria. They do marvelous work. The people there are very professional chemists and professional people who do the work that really helps us plan for the future uses of commodities and other fruits and vegetables and specialty crops that we grow in this country.

So the emphasis on research in this bill is extraordinary. The amount of money dedicated to research in this bill is extraordinary. It makes an awful lot of sense, I think, to pass the rule and certainly pass the bill. There will be some opportunities for some people to make modifications or offer amendments, and then there will be additional time, obviously later on, when there is a conference.

But today I think is the day to pass the rule, pass this good bill, keep things moving, and really assist those in agriculture who need the kind of assistance and help and research funds that this bill provides.

Mr. HASTINGS of Washington. Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from Texas (Mr. SESSIONS), a colleague on the Committee on Rules.

Mr. SESSIONS. Madam Speaker, I thank the gentleman from Washington, my colleague on the Committee on Rules, for yielding me time.

Madam Speaker, my colleagues understand what we are talking about today is the rule. That is what we are debating right now, about whether we are going to move forward on the rule,

an opportunity to put this on the floor, an opportunity to vote on this and get the appropriations bill done before we go home.

I think it is important to understand that what this rule provides for is an incredible amount of money for some very important projects, to some things that sustain America, to some things that we have, how we deal with people in our country.

We should not go too far from understanding that this bill provides $22 billion for food stamps. This bill provides $1.2 billion for the Food and Drug Administration. They know how to administer their business. They know what they are doing, and $1.2 billion will cover that. Child nutrition programs, $10.1 billion. The Supplemental Nutritional Program for Women, Infants and Children, known as WIC, $4.1 billion.

What we are doing with this bill and with this rule is to make sure that the agriculture of this country is not only safe and the food they produce is reliable, but we are also trying to make sure that we look at the resources and assets that we have in this country and say that we believe that conservation programs are important; we think people who are engaged in agriculture are important.

We are making sure that our Federal Crop Insurance Corporation is funded, $3 billion. We are trying to prepare ourselves to make sure that people who live in rural areas and who are in agriculture know that Washington will deal fairly with them.

But we also recognize that part of the argument we are going to hear today is we are not spending enough money. Well, I might remind my colleagues that we can never spend enough money to make sure that some people in this body will always be happy, but that we do go back to the budget that we set in place earlier in the year, and that this program that we are doing for the 2002 agriculture appropriations act falls in line with what this body said it would do. Then, through the leadership of the gentleman from Texas (Mr. BONILLA), we have had an opportunity to craft through many discussions and through many votes a policy of this country that is good on a moving-forward basis.

So I support what we are doing here today. This rule is important for us to continue the process, not only on this appropriations bill, but to make sure that we finish in time and move forward on the commitment that we have to the country, to make sure that the public policy of this Republican Congress and, yes, one that the President will sign, to make sure that people who are involved in agribusiness and consumers and, yes, women and children and people who are on food stamps, will make sure that the system is there and reliable and works properly.

So I applaud the gentleman from Texas (Mr. BONILLA) for his hard work, and our chairman, the gentleman from Florida (Mr. YOUNG), and also the gentleman from Washington (Mr. HASTINGS), a member of the Committee on Rules who has worked carefully to make sure that this rule is fair and open. Lastly, I would like to give accolades to the gentleman from California (Mr. DREIER), who is our chairman, who has worked very diligently to make sure that the rule that was crafted not only exemplified what this body would be in favor of, but would also be something that people in his home State of California would be proud of.

Mr. HALL of Ohio. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I think this is a good rule. It is an open rule that we typically have for appropriations bills.

As was mentioned earlier, there was some criticism by members of the Committee on Rules not allowing some amendments to be made in order. I think what the Committee on Rules really did was protect the product of the Committee on Appropriations.

Yes, there were some waivers in this; but essentially the will of the Committee on Appropriations was such that they went through their process and added some issues to this bill that required waivers. We gave them, and protected the product that they desired.

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

The previous question was ordered.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the resolution.

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

Mr. HALL of Ohio. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 222, nays 194, not voting 18, as follows:

[Roll No. 207]

YEAS—222

Aderholt
Akin
Armey
Bachus
Baker
Baldacci
Ballenger
Barr
Bartlett
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Maloney (NY)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Combest
Condit
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hill
Hilliard
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee

Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—18

Barton
Bonior
Boucher
Burton
Conyers
Dingell
Houghton
Largent
Meek (FL)
Owens
Platts
Putnam
Rahall
Ros-Lehtinen
Slaughter
Smith (TX)
Thomas
Weldon (PA)

□ 1401

Mrs. TAUSCHER, Ms. ESHOO, Mr. WAXMAN, and Mr. RUSH changed their vote from ''yea'' to ''nay.''

Messrs. MANZULLO, TAYLOR of North Carolina, and BALDACCI changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The motion to reconsider was laid on the table.

Stated against:

Ms. SLAUGHTER. Madam Speaker, I was unavoidably detained due to emergency dental work during rollcall vote No. 207. Had I been present, I would have voted "no" on rollcall vote No. 207.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Ed Thomas, one of his secretaries.

ANNUAL REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mrs. BIGGERT) 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 Energy and Commerce:

To the Congress of the United States:

In accordance with the Public Broadcasting Act of 1967, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 2000.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 28, 2001.*

GENERAL LEAVE

Mr. BONILLA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and that I may include tabular and extraneous material on H.R. 2330.

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

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to House Resolution 183 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2330.

□ 1402

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2230) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, with Mr. GOODLATTE in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Texas (Mr. BONILLA) and the gentlewoman from Ohio (Ms. KAPTUR) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. BONILLA).

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

Mr. Chairman, we are delighted today to be presenting the Agricultural Appropriations bill for fiscal year 2002. I want to acknowledge the good work of the gentlewoman from Ohio (Ms. KAPTUR), my ranking member, who has contributed to this process over the last few weeks.

It has been a pleasure working with her and all the members of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies on both sides of the aisle.

I believe we have produced a good bipartisan bill that deals with a lot of the specific issues that Members are concerned about in their districts around the country, ranging from research projects to inspection issues, to FDA issues, to just any possible issue that has come up. There have been 2500-plus requests from individual Members, and we have done our best to accommodate that.

Mr. Chairman, I am just delighted that we have seen good, strong bipartisan support for the effort we have undertaken in putting this bill together.

Mr. Chairman, I am pleased to bring before the House today the fiscal year 2002 appropriations bill for Agriculture, Rural Development, the Food and Drug Administration and Related Agencies.

My goal this year has been to produce a bipartisan bill, and I believe we have done a good job in reaching that goal.

The subcommittee began work on this bill in early March, before the administration produced its budget. We had 6 public hearings beginning on March 8. The transcripts of these hearings, the administration's official statements, the detailed budget requests, several thousand questions for the record and the statements of members and the public are all contained in six hearing volumes.

In order to expedite action on this bill, we completed our subcommittee's hearings on May 6.

The subcommittee and full committee marked up the bill on June 6 and June 13 respectively.

We have tried very hard to accommodate the requests of Members, and to provide increases for critical programs. We received 2,532 individual requests for specific spending, from almost every Member of the House. Reading all of the mail I received, I can confirm to you that the interest in this bill is completely bipartisan.

This bill does have significant increases over fiscal year 2001 for programs that have always enjoyed strong bipartisan support. Those increases include:

Agricultural Research Service, $79 million;

Animal and Plant Health Inspection Service, $55 million;

Food Safety and Inspection Service, $25 million;

Farm Service Agency, $201 million;

Natural Resources Conservation Service, $77 million; and

Food and Drug Administration, $120 million.

I would like to say that I am very happy that we were able to provide significant increases for the Food and Drug Administration. I think it is vitally important for that agency to have the resources to perform its public health mission. We are able to provide FDA the following increases above last year's level:

$15 million to prevent outbreak of BSE, or Bovine Spongiform Encephalopathy, which is commonly known as "Mad Cow disease";

$10 million to increase the number of domestic and foreign inspections, and to expand import coverage in all product areas;

$10 million to reduce adverse events related to medical products;

$10 million to better protect volunteers who participate in clinical research studies;

$9 million to provide a safer food supply;

$23 million to complete construction of the replacement facility in Los Angeles that we initiated last year;

And full funding of increased pay costs for existing employees.

I want to stress how important this is. In the past, FDA and all other agencies in this bill were forced to reduce the level of services provided to the public, in order to absorb legislated payroll increases. This year, we want to be sure that does not happen. I am sure that we all want to see that there is no slippage in research, application review, inspections, loan servicing, and all the other payroll-intensive operations that are financed through our bill. We worked hard to find these resources. I am glad we were able to do it, and I am sure the agencies will put them to good use.

Mr. Chairman, we all refer to this bill as an agriculture bill, but it does far more than assisting basic agriculture. It also supports human nutrition, the environment, and food, drug, and medical safety. This is a bill that will deliver benefits to every one of our constituents every day no matter what kind of district they represent.

I would say to all Members that they can support this bill and tell all of their constituents that they voted to improve their lives while maintaining fiscal responsibility.

The bill is a bipartisan product with a lot of hard work and input from both sides of the aisle. I would like to thank the gentleman from Florida, (Chairman YOUNG), and the gentleman from Wisconsin, (Mr. OBEY), who serve as the distinguished chairman and ranking member of the Committee on Appropriations. I would also like to thank all my subcommittee colleagues: the gentleman from New York (Mr. WALSH); the gentleman from Georgia (Mr. KINGSTON); the gentleman from Washington (Mr. NETHERCUTT); the gentleman from Iowa (Mr. LATHAM); the gentlewoman from Missouri (Mrs. EMERSON); the gentleman from Virginia (Mr. GOODE); the gentleman from Illinois (Mr. LAHOOD); the gentlewoman from Connecticut (Ms. DELAURO); the gentleman from New York (Mr. HINCHEY) the gentleman from Florida (Mr. BOYD).

In particular, I want to thank the gentlewoman from Ohio (Ms. KAPTUR), the distinguished ranking member of the subcommittee, for all her good work on this bill this year and the years in the past.

Mr. Chairman, I would like to include at this point in the RECORD tabular material relating to the bill.

Mr. Chairman, I include the following Comparative Statement of Budget Authority for the RECORD:

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - AGRICULTURAL PROGRAMS					
Production, Processing, and Marketing					
Office of the Secretary	2,908	2,992	3,015	+107	+23
Executive Operations:					
Chief Economist	7,446	7,648	7,704	+258	+56
National Appeals Division	12,394	12,766	12,869	+475	+103
Office of Budget and Program Analysis	6,750	6,978	7,041	+291	+63
Office of the Chief Information Officer	10,029	10,261	10,325	+296	+64
Common computing environment	39,912	59,369	59,369	+19,457	.....
Office of the Chief Financial Officer	5,160	5,335	5,384	+224	+49
Total, Executive Operations	81,691	102,357	102,692	+21,001	+335
Office of the Assistant Secretary for Administration	628	647	652	+24	+5
Agriculture buildings and facilities and rental payments	182,345	187,581	187,647	+5,302	+66
Payments to GSA	(125,266)	(130,266)	(130,266)	(+5,000)	.....
Building operations and maintenance	(31,136)	(31,372)	(31,438)	(+302)	(+66)
Repairs, renovations, and construction	(25,943)	(25,943)	(25,943)	.....	.....
Hazardous materials management	15,665	15,665	15,665	.....	.....
Departmental administration	35,931	37,079	37,398	+1,467	+319
Outreach for socially disadvantaged farmers	2,993	2,993	2,993	.....	.....
Office of the Assistant Secretary for Congressional Relations	3,560	3,684	3,718	+158	+34
Office of Communications	8,604	8,894	8,975	+371	+81
Office of the Inspector General	68,715	70,839	71,429	+2,714	+590
Office of the General Counsel	31,012	32,627	32,937	+1,925	+310
Office of the Under Secretary for Research, Education and Economics	555	573	578	+23	+5
Economic Research Service	66,891	67,200	67,620	+729	+420
National Agricultural Statistics Service	100,550	113,786	114,546	+13,996	+760
Census of Agriculture	(14,967)	(25,350)	(25,456)	(+10,489)	(+106)
Agricultural Research Service	896,835	915,591	971,365	+74,530	+55,774
Buildings and facilities	74,037	30,462	78,862	+4,825	+48,400
Total, Agricultural Research Service	970,872	946,053	1,050,227	+79,355	+104,174
Cooperative State Research, Education, and Extension Service:					
Research and education activities	505,079	407,319	507,452	+2,373	+100,133
Native American Institutions Endowment Fund	(7,100)	(7,100)	(7,100)	.....	.....
Extension activities	432,475	413,404	436,029	+3,554	+22,625
Integrated activities	41,849	41,849	43,355	+1,506	+1,506
Total, Cooperative State Research, Education, and Extension Service	979,403	862,572	986,836	+7,433	+124,264
Office of the Under Secretary for Marketing and Regulatory Programs	634	654	660	+26	+6
Animal and Plant Health Inspection Service:					
Salaries and expenses	529,397	702,925	587,386	+57,989	-115,539
AQI user fees	(84,813)	(84,813)	(84,813)	.....	.....
Buildings and facilities	9,848	5,189	7,189	-2,659	+2,000
Total, Animal and Plant Health Inspection Service	539,245	708,114	594,575	+55,330	-113,539
Agricultural Marketing Service:					
Marketing Services	65,191	71,430	71,774	+6,583	+344
Standardization user fees	(4,000)	(5,000)	(5,000)	(+1,000)	.....
(Limitation on administrative expenses, from fees collected)	(60,596)	(60,596)	(60,596)	.....	.....
Funds for strengthening markets, income, and supply (transfer from section 32)	13,438	13,874	13,995	+557	+121
Payments to states and possessions	1,347	1,347	1,347	.....	.....
Total, Agricultural Marketing Service	79,976	86,651	87,116	+7,140	+465
Grain Inspection, Packers and Stockyards Administration:					
Salaries and expenses	31,350	32,907	33,117	+1,767	+210
Inspection and weighing services	(42,463)	(42,463)	(42,463)	.....	.....
Office of the Under Secretary for Food Safety	459	476	481	+22	+5
Food Safety and Inspection Service	695,171	715,542	720,652	+25,481	+5,110
Lab accreditation fees 1/	(998)	(1,000)	(1,000)	(+2)	.....
Total, Food Safety and Inspection Service	695,171	715,542	720,652	+25,481	+5,110
Total, Production, Processing, and Marketing	3,899,158	3,999,886	4,123,529	+224,371	+123,643
Farm Assistance Programs					
Office of the Under Secretary for Farm and Foreign Agricultural Services	588	606	611	+23	+5
Farm Service Agency:					
Salaries and expenses	826,563	939,030	945,993	+119,430	+6,963
(Transfer from export loans)	(588)	(790)	(797)	(+209)	(+7)
(Transfer from P.L. 480)	(813)	(972)	(980)	(+167)	(+8)
(Transfer from ACIF)	(264,731)	(272,595)	(274,769)	(+10,038)	(+2,174)
Subtotal, Transfers from program accounts	(266,132)	(274,357)	(276,546)	(+10,414)	(+2,189)
Total, salaries and expenses	(1,092,695)	(1,213,387)	(1,222,539)	(+129,844)	(+9,152)
State mediation grants	2,993	2,993	2,993	.....	.....
Dairy indemnity program	450	100	100	-350	.....
Subtotal, Farm Service Agency	830,006	942,123	949,086	+119,080	+6,963

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 2002 (H.R. 2330)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Agricultural Credit Insurance Fund Program Account:					
Loan authorizations:					
Farm ownership loans:					
Direct	(127,722)	(128,000)	(128,000)	(+278)	.....
Guaranteed	(868,086)	(1,000,000)	(1,000,000)	(+131,914)	.....
Subtotal	(995,808)	(1,128,000)	(1,128,000)	(+132,192)	.....
Farm operating loans:					
Direct	(522,891)	(600,000)	(600,000)	(+77,109)	.....
Unsubsidized guaranteed	(1,075,468)	(1,500,000)	(1,500,000)	(+424,532)	.....
Subsidized guaranteed	(369,100)	(500,000)	(500,000)	(+130,900)	.....
Subtotal	(1,967,459)	(2,600,000)	(2,600,000)	(+632,541)	.....
Indian tribe land acquisition loans	(2,002)	(2,000)	(2,000)	(-2)	.....
Emergency disaster loans	(24,947)	(25,000)	(25,000)	(+53)	.....
Boll weevil eradication loans	(100,000)	(100,000)	(100,000)	.....	.....
Total, Loan authorizations	(3,090,216)	(3,855,000)	(3,855,000)	(+764,784)	.....
Loan subsidies:					
Farm ownership loans:					
Direct	13,756	3,366	3,366	-10,390	.....
Guaranteed	4,427	4,500	4,500	+73	.....
Subtotal	18,183	7,866	7,866	-10,317	.....
Farm operating loans:					
Direct	47,251	53,580	53,580	+6,329	.....
Unsubsidized guaranteed	14,738	52,650	52,650	+37,912	.....
Subsidized guaranteed	30,119	67,800	67,800	+37,681	.....
Subtotal	92,108	174,030	174,030	+81,922	.....
Indian tribe land acquisition	322	118	118	-204	.....
Emergency disaster loans	6,120	3,363	3,363	-2,757	.....
Total, Loan subsidies	116,733	185,377	185,377	+68,644	.....
ACIF expenses:					
Salaries and expense (transfer to FSA)	264,731	272,595	274,769	+10,038	+2,174
Administrative expenses	4,130	8,000	8,000	+3,870	.....
Total, ACIF expenses	268,861	280,595	282,769	+13,908	+2,174
Total, Agricultural Credit Insurance Fund	385,594	465,972	468,146	+82,552	+2,174
(Loan authorization)	(3,090,216)	(3,855,000)	(3,855,000)	(+764,784)	.....
Total, Farm Service Agency	1,215,600	1,408,095	1,417,232	+201,632	+9,137
Risk Management Agency	65,453	74,752	75,142	+9,689	+390
Total, Farm Assistance Programs	1,281,641	1,483,453	1,492,985	+211,344	+9,532
Corporations					
Federal Crop Insurance Corporation:					
Federal crop insurance corporation fund	2,804,660	3,037,000	3,037,000	+232,340	.....
Commodity Credit Corporation Fund:					
Reimbursement for net realized losses	25,264,441	23,116,000	23,116,000	-2,148,441	.....
Operations and maintenance for hazardous waste management (limitation on administrative expenses)	(5,000)	(5,000)	(5,000)	.....	.....
Total, Corporations	28,069,101	26,153,000	26,153,000	-1,916,101	.....
Total, title I, Agricultural Programs	33,249,900	31,636,339	31,769,514	-1,480,386	+133,175
(By transfer)	(266,132)	(274,357)	(276,546)	(+10,414)	(+2,189)
(Loan authorization)	(3,090,216)	(3,855,000)	(3,855,000)	(+764,784)	.....
(Limitation on administrative expenses)	(108,059)	(108,059)	(108,059)	.....	.....
TITLE II - CONSERVATION PROGRAMS					
Office of the Under Secretary for Natural Resources and Environment	709	730	736	+27	+6
Natural Resources Conservation Service:					
Conservation operations	712,545	773,454	782,762	+70,217	+9,308
Watershed surveys and planning	10,844	10,960	11,030	+186	+70
Watershed and flood prevention operations	99,224	100,413	105,743	+6,519	+5,330
Resource conservation and development	41,923	43,048	48,361	+6,438	+5,313
Forestry incentives program	6,311	.....	.....	-6,311	.....
Agricultural Conservation Program (rescission)	.....	.....	-45,000	-45,000	-45,000
Total, Natural Resources Conservation Service	870,847	927,875	902,896	+32,049	-24,979
Total, title II, Conservation Programs	871,556	928,605	903,632	+32,076	-24,973
TITLE III - RURAL DEVELOPMENT PROGRAMS					
Office of the Under Secretary for Rural Development	604	623	628	+24	+5

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(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Rural Development:					
Rural community advancement program	760,864	692,125	767,465	+6,601	+75,340
RD expenses:					
Salaries and expenses	130,084	133,722	134,733	+4,649	+1,011
(Transfer from RHIF)	(408,333)	(419,741)	(422,910)	(+14,577)	(+3,169)
(Transfer from RDLFP)	(3,632)	(3,733)	(3,761)	(+129)	(+28)
(Transfer from RETLP)	(34,640)	(35,604)	(36,322)	(+1,682)	(+718)
(Transfer from RTB)	(2,993)	(3,082)	(3,107)	(+114)	(+25)
Total, RD expenses	(579,682)	(595,882)	(600,833)	(+21,151)	(+4,951)
Total, Rural Development	890,948	825,847	902,198	+11,250	+76,351
Rural Housing Service:					
Rural Housing Insurance Fund Program Account:					
Loan authorizations:					
Single family (sec. 502)	(1,071,628)	(1,064,650)	(1,064,650)	(-6,978)	
Unsubsidized guaranteed	(3,136,429)	(3,137,968)	(3,137,968)	(+1,539)	
Subtotal, Single family	(4,208,057)	(4,202,618)	(4,202,618)	(-5,439)	
Housing repair (sec. 504)	(32,324)	(32,324)	(32,324)		
Rental housing (sec. 515)	(114,070)	(114,068)	(114,068)	(-2)	
Site loans (sec. 524)	(5,152)	(5,090)	(5,090)	(-62)	
Multi-family housing guarantees (sec. 538)	(99,780)	(99,770)	(99,770)	(-10)	
Multi-family housing credit sales	(1,779)	(1,778)	(1,778)	(-1)	
Single family housing credit sales	(10,000)	(10,000)	(10,000)		
Self-help housing land development fund	(4,998)	(5,000)	(5,000)	(+2)	
Total, Loan authorizations	(4,476,160)	(4,470,648)	(4,470,648)	(-5,512)	
Loan subsidies:					
Single family (sec. 502)	176,371	140,108	140,108	-36,263	
Unsubsidized guaranteed	7,384	40,166	40,166	+32,782	
Subtotal, Single family	183,755	180,274	180,274	-3,481	
Housing repair (sec. 504)	11,456	10,386	10,386	-1,070	
Rental housing (sec. 515)	56,202	48,274	48,274	-7,928	
Site loans (sec. 524)		28	28	+28	
Multi-family housing guarantees (sec. 538)	1,517	3,921	3,921	+2,404	
Multi-family housing credit sales	872	750	750	-122	
Self-help housing land development fund	278	254	254	-24	
Total, Loan subsidies	254,080	243,887	243,887	-10,193	
RHIF administrative expenses (transfer to RD)	408,333	419,741	422,910	+14,577	+3,169
Rental assistance program:					
(Sec. 521)	672,604	687,604	687,604	+15,000	
(Sec. 502(c)(5)(D))	5,900	5,900	5,900		
Total, Rental assistance program	678,504	693,504	693,504	+15,000	
Total, Rural Housing Insurance Fund	1,340,917	1,357,132	1,360,301	+19,384	+3,169
(Loan authorization)	(4,476,160)	(4,470,648)	(4,470,648)	(-5,512)	
Mutual and self-help housing grants	33,925	33,925	33,925		
Rural housing assistance grants	43,903	38,914	38,914	-4,989	
Farm labor program account	29,934	28,431	31,431	+1,497	+3,000
Subtotal, grants and payments	107,762	101,270	104,270	-3,492	+3,000
Total, Rural Housing Service	1,448,679	1,458,402	1,464,571	+15,892	+6,169
(Loan authorization)	(4,476,160)	(4,470,648)	(4,470,648)	(-5,512)	
Rural Business-Cooperative Service:					
Rural Development Loan Fund Program Account:					
(Loan authorization)	(38,172)	(38,171)	(38,171)	(-1)	
Loan subsidy	19,433	16,494	16,494	-2,939	
Administrative expenses (transfer to RD)	3,632	3,733	3,761	+129	+28
Total, Rural Development Loan Fund	23,065	20,227	20,255	-2,810	+28
Rural Economic Development Loans Program Account:					
(Loan authorization)	(14,969)	(14,966)	(14,966)	(-3)	
Direct subsidy	3,902	3,616	3,616	-286	
Rural cooperative development grants	6,486	6,486	7,500	+1,014	+1,014
Rural empowerment zones and enterprise community grants		14,967	14,967	+14,967	
Total, Rural Business-Cooperative Service	33,453	45,296	46,338	+12,885	+1,042
(Loan authorization)	(53,141)	(53,137)	(53,137)	(-4)	

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(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Rural Utilities Service:					
Rural Electrification and Telecommunications Loans Program Account:					
Loan authorizations:					
Electric:					
Direct, 5%	(121,128)	(121,107)	(121,107)	(-21)	.....
Direct, Municipal rate	(294,358)	(294,358)	(794,358)	(+500,000)	(+500,000)
Direct, FFB	(1,600,000)	(1,600,000)	(2,600,000)	(+1,000,000)	(+1,000,000)
Direct, Treasury rate	(500,000)	(500,000)	(500,000)	.....	.....
Guaranteed electric	(100,000)	(100,000)	(100,000)	.....	.....
Subtotal, Electric	(2,615,486)	(2,615,465)	(4,115,465)	(+1,499,979)	(+1,500,000)
Telecommunications:					
Direct, 5%	(74,835)	(74,827)	(74,827)	(-8)	.....
Direct, Treasury rate	(300,000)	(300,000)	(300,000)	.....	.....
Direct, FFB	(120,000)	(120,000)	(120,000)	.....	.....
Subtotal, Telecommunications	(494,835)	(494,827)	(494,827)	(-8)	.....
Total, Loan authorizations	(3,110,321)	(3,110,292)	(4,610,292)	(+1,499,971)	(+1,500,000)
Loan subsidies:					
Electric:					
Direct, 5%	12,064	3,609	3,609	-8,455	.....
Guaranteed electric	10	80	80	+70	.....
Direct, Municipal rate	20,458	.....	.....	-20,458	.....
Subtotal, Electric	32,532	3,689	3,689	-28,843	.....
Telecommunications:					
Direct, 5%	7,753	1,736	1,736	-6,017	.....
Direct, Treasury rate	.....	300	300	+300	.....
Subtotal, Telecommunications	7,753	2,036	2,036	-5,717	.....
Total, Loan subsidies	40,285	5,725	5,725	-34,560	.....
RETLP administrative expenses (transfer to RD)	34,640	35,604	36,322	+1,682	+718
Total, Rural Electrification and Telecommunications Loans Program Account	74,925	41,329	42,047	-32,878	+718
(Loan authorization)	(3,110,321)	(3,110,292)	(4,610,292)	(+1,499,971)	(+1,500,000)
Rural Telephone Bank Program Account:					
(Loan authorization)	(174,615)	.....	(174,615)	.....	(+174,615)
Direct loan subsidy	2,584	.....	2,584	.....	+2,584
RTB administrative expenses (transfer to RD)	2,993	3,082	3,107	+114	+25
Total, Rural Telephone Bank Program Account	5,577	3,082	5,691	+114	+2,609
High energy costs grants (by transfer)	.....	(24,000)	(24,000)	(+24,000)	.....
Distance learning and telemedicine program:					
(Loan authorization)	(400,000)	(300,000)	(300,000)	(-100,000)	.....
(Loan authorization) (proposal)	.....	(100,000)	(100,000)	(+100,000)	.....
Grants	26,941	26,941	26,941	.....	.....
Total, Rural Utilities Service	107,443	71,352	74,679	-32,764	+3,327
(Loan authorization)	(3,684,936)	(3,510,292)	(5,184,907)	(+1,499,971)	(+1,674,615)
Total, title III, Rural Economic and Community Development Programs	2,481,127	2,401,520	2,488,414	+7,287	+86,894
(By transfer)	(449,598)	(486,160)	(490,100)	(+40,502)	(+3,940)
(Loan authorization)	(8,214,237)	(8,034,077)	(9,708,692)	(+1,494,455)	(+1,674,615)
TITLE IV - DOMESTIC FOOD PROGRAMS					
Office of the Under Secretary for Food, Nutrition and Consumer Services	569	587	592	+23	+5
Food and Nutrition Service:					
Child nutrition programs	4,407,445	4,729,490	4,746,038	+338,593	+16,548
Transfer from section 32	5,127,579	5,357,256	5,340,708	+213,129	-16,548
Discretionary spending	6,486	2,000	2,000	-4,486	.....
Total, Child nutrition programs	9,541,510	10,088,746	10,088,746	+547,236	.....
Special supplemental nutrition program for women, infants, and children (WIC)	4,043,086	4,137,086	4,137,086	+94,000	.....
Food stamp program:					
Expenses	18,618,228	19,556,436	19,556,436	+938,208	.....
Reserve	100,000	1,000,000	1,000,000	+900,000	.....
Nutrition assistance for Puerto Rico	1,301,000	1,335,550	1,335,550	+34,550	.....
The emergency food assistance program	100,000	100,000	100,000	.....	.....
Total, Food stamp program	20,119,228	21,991,986	21,991,986	+1,872,758	.....
Commodity assistance program	139,991	139,991	152,813	+12,822	+12,822
Rescission	.....	-5,300	.....	.....	+5,300
Food donations programs:					
Needy family program	1,081	1,081	1,081	.....	.....
Elderly feeding program	149,670	149,668	149,668	-2	.....
Total, Food donations programs	150,751	150,749	150,749	-2	.....

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	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Food program administration	116,550	125,546	126,656	+10,106	+1,110
Total, Food and Nutrition Service	34,111,116	36,628,804	36,648,036	+2,536,920	+19,232
Total, title IV, Domestic Food Programs	34,111,685	36,629,391	36,648,628	+2,536,943	+19,237
TITLE V - FOREIGN ASSISTANCE AND RELATED PROGRAMS					
Foreign Agricultural Service:					
Salaries and expenses, direct appropriation	115,170	121,563	122,631	+7,461	+1,068
(Transfer from export loans)	(3,224)	(3,224)	(3,224)	.....	.....
(Transfer from P.L. 480)	(1,033)	(1,033)	(1,033)	.....	.....
Total, Program level	(119,427)	(125,820)	(126,888)	(+7,461)	(+1,068)
Public Law 480 Program and Grant Accounts:					
Program account:					
Loan authorization, direct	(159,327)	(139,399)	(150,000)	(-9,327)	(+10,601)
Loan subsidy	113,935	113,935	122,600	+8,665	+8,665
Ocean freight differential	20,277	20,277	20,277	.....	.....
Title II - Commodities for disposition abroad:					
Program level	(835,159)	(835,159)	(835,159)	.....	.....
Appropriation	835,159	835,159	835,159	.....	.....
Salaries and expenses:					
Foreign Agricultural Service (transfer to FAS)	1,033	1,033	1,033	.....	.....
Farm Service Agency (transfer to FSA)	813	972	980	+167	+8
Subtotal	1,846	2,005	2,013	+167	+8
Total, Public Law 480:					
Program level	(835,159)	(835,159)	(835,159)	.....	.....
Appropriation	971,217	971,376	980,049	+8,832	+8,673
CCC Export Loans Program Account (administrative expenses):					
Salaries and expenses (Export Loans):					
General Sales Manager (transfer to FAS)	3,224	3,224	3,224	.....	.....
Farm Service Agency (transfer to FSA)	588	790	797	+209	+7
Total, CCC Export Loans Program Account	3,812	4,014	4,021	+209	+7
Total, title V, Foreign Assistance and Related Programs	1,090,199	1,096,953	1,106,701	+16,502	+9,748
(By transfer)	(4,257)	(4,257)	(4,257)	.....	.....
TITLE VI - FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES					
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Food and Drug Administration					
Salaries and expenses, direct appropriation	1,066,173	1,173,673	1,180,623	+114,450	+6,950
Prescription drug user fee act	(149,273)	(161,716)	(161,716)	(+12,443)	.....
Subtotal	(1,215,446)	(1,335,389)	(1,342,339)	(+126,893)	(+6,950)
Export and certification	(5,992)	(6,181)	(6,181)	(+189)	.....
Payments to GSA	(104,736)	(105,116)	(105,116)	(+380)	.....
Drug reimportation	.....	2,950	2,950	+2,950	.....
Buildings and facilities	31,281	34,281	34,281	+3,000	.....
Total, Food and Drug Administration	1,097,454	1,210,904	1,217,854	+120,400	+6,950
INDEPENDENT AGENCIES					
Commodity Futures Trading Commission	67,850	70,400	70,700	+2,850	+300
Farm Credit Administration (limitation on administrative expenses)	(36,719)	(36,700)	(36,700)	(-19)	.....
Total, title VI, Related Agencies and Food and Drug Administration	1,165,304	1,281,304	1,288,554	+123,250	+7,250
TITLE VII - GENERAL PROVISIONS					
Hunger fellowships	1,996	1,996	4,000	+2,004	+2,004
National Sheep Industry Improvement Center revolving fund	5,000	.....	1,000	-4,000	+1,000
FDA drug reimportation	22,949	.....	.....	-22,949	.....
CCC Apple market loss (contingent emergency appropriations)	.....	.....	150,000	+150,000	+150,000
Total, title VII, General provisions	29,945	1,996	155,000	+125,055	+153,004
TITLE VIII - FY 2001					
NATURAL DISASTER ASSISTANCE AND OTHER					
EMERGENCY APPROPRIATIONS					
CHAPTER 1					
DEPARTMENT OF AGRICULTURE					
Office of the Chief Information Officer:					
Common computing environment (contingent emergency appropriations)	19,457	.....	.....	-19,457	.....
Departmental administration (contingent emergency appropriations)	200	.....	.....	-200	.....

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	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Farm Service Agency					
Salaries and expenses (contingent emergency appropriations)	49,890			-49,890	
Emergency conservation program (contingent emergency appropriations)	79,824			-79,824	
Federal Crop Insurance Corporation					
Federal crop insurance corporation fund (emergency appropriations)	12,971			-12,971	
Natural Resources Conservation Service					
Watershed and flood prevention operations (contingent emergency appropriations)	109,758			-109,758	
Rural Development					
Rural community advancement program (contingent emergency appropriations)	199,560			-199,560	
Total, Department of Agriculture	471,660			-471,660	
General Provisions					
Conservation technical assistance (contingent emergency appropriations)	34,923			-34,923	
CCC Disease loss compensation (contingent emergency appropriations)	19,000			-19,000	
Dairy assistance (contingent emergency appropriations)	473,000			-473,000	
CCC Livestock assistance program (contingent emergency appropriations)	488,922			-488,922	
WRP Additional acreage enrollments (contingent emergency appropriations)	117,000			-117,000	
CCC Sheep loss assistance (contingent emergency appropriations)	2,395			-2,395	
CCC Citrus canker compensation (contingent emergency appropriations)	57,872			-57,872	
CCC Apple/potatoes market loss and quality (contingent emergency appropriations)	137,696			-137,696	
CCC Honey assistance (contingent emergency appropriations)	20,000			-20,000	
CCC Livestock indemnity program (contingent emergency appropriations)	9,978			-9,978	
CCC Wool/mohair assistance (contingent emergency appropriations)	19,956			-19,956	
CCC Crop loss disaster assistance (contingent emergency appropriations)	1,622,000			-1,622,000	
CCC Cranberry assistance (contingent emergency appropriations)	19,956			-19,956	
Shared appreciation loan arrangements (contingent emergency appropriations)	2,000			-2,000	
SC grain dealer's guarantee fund (contingent emergency appropriations)	2,495			-2,495	
Puerto Rico food stamp block grant	-5,000			+5,000	
Hawaii sugar transportation cost assistance (contingent emergency appropriations)	7,184			-7,184	
Rural development cooperative grants (contingent emergency appropriations)	9,978			-9,978	
Business and industry loans:					
(Loan authorization)	(1,160,232)			(-1,160,232)	
Loan subsidy (contingent emergency appropriations)	9,978			-9,978	
CCC Tobacco quota compensation (contingent emergency appropriations)	3,000			-3,000	
CCC Cooperative assistance (contingent emergency appropriations)	19,956			-19,956	
CCC Burley tobacco (contingent emergency appropriations)	50,000			-50,000	
CCC LDP delinquent borrower (contingent emergency appropriations)	5,000			-5,000	
Food stamp excess shelter allowance (contingent emergency appropriations)	15,000			-15,000	
Food stamp vehicle allowance (contingent emergency appropriations)	25,000			-25,000	
Total, General Provisions	3,167,289			-3,167,289	
Total, title VIII, FY 2001	3,638,949			-3,638,949	
TITLE X - ANTI-DUMPING					
Anti-dumping	39,912			-39,912	
Grand total:					
New budget (obligational) authority	76,678,577	73,976,108	74,360,443	-2,318,134	+384,335
Appropriations	(73,034,628)	(73,981,408)	(74,210,443)	(+1,175,815)	(+229,035)
Rescission		(-5,300)			(+5,300)
Emergency appropriations	(12,971)			(-12,971)	
Contingent emergency appropriations	(3,630,978)		(150,000)	(-3,480,978)	(+150,000)
(By transfer)	(719,987)	(764,774)	(770,903)	(+50,916)	(+6,129)
(Loan authorization)	(11,463,780)	(12,028,476)	(13,713,692)	(+2,249,912)	(+1,685,216)
(Limitation on administrative expenses)	(144,778)	(144,759)	(144,759)	(-	
RECAPITULATION					
Title I - Agricultural programs	33,249,900	31,636,339	31,769,514	-1,480,386	+133,175
Title II - Conservation programs	871,556	928,605	903,632	+32,076	-24,973
Title III - Rural economic and community development programs	2,481,127	2,401,520	2,488,414	+7,287	+86,894
Title IV - Domestic food programs	34,111,685	36,629,391	36,648,628	+2,536,943	+19,237
Title V - Foreign assistance and related programs	1,090,199	1,096,953	1,106,701	+16,502	+9,748
Title VI - Related agencies and Food and Drug Administration	1,165,304	1,281,304	1,288,554	+123,250	+7,250
Title VII - General provisions	29,945	1,996	155,000	+125,055	+153,004
Title VIII, FY 2001	3,638,949			-3,638,949	
Title X, Anti-dumping	39,912			-39,912	
Total, new budget (obligational) authority	76,678,577	73,976,108	74,360,443	-2,318,134	+384,335

1/ In addition to appropriation.

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

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

Mr. Chairman, let me rise to say that this is a good bill that, in fact, is getting better at every stage of the legislative process.

The gentleman from Texas (Mr. BONILLA), chairman of the Subcommittee, and our committee staff have worked to draft a fair bill within tight budget allocations; but the underlying amounts in different sections of the bill are far from what is necessary, given many of the needs of rural America and our food assistance programs.

This is the first bill managed by our new chairman, the gentleman from Texas (Mr. BONILLA). Let me congratulate him on his maiden voyage as chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies and thank the gentleman for his cooperation throughout.

What we all learn together, hopefully, will put us in a position to continue to work towards the best possible bill for America's future.

I want to thank the subcommittee staff: Hank Moore; Martin Delgado; Maureen Holohan; Joanne Orndorff; Jim Richards; Roger Szemraj; and our detailee, Leslie Barrack.

I also want to thank our new minority staff member, Martha Foley, very much for her hard work.

Mr. Chairman, let us put this bill in perspective. To begin with, overall we have a spending level for 2002 of $74,360 billion of which $15,669 billion is discretionary spending, plus an additional $150 million for the Hinchey apple disaster provisions.

Several times today already, each of us have been touched by agriculture and other agencies in this bill: the food that we have eaten; some of the fabrics we are wearing; perhaps, even the blended fuels that were used in the vehicles that brought us to work; or the medications or vitamins that we take on any day.

We have been benefited by the research in this bill, by education and training, by inspection services that are operating at red alert levels now to keep hoof and mouth disease and mad cow disease out of this country, and by marketing services that take the bounty of this land around the world.

Truly, this is the committee that is concerned about food, fiber, the fuels of the future, and the condition of our forests.

Mr. Chairman, nearly 80 percent of the spending in this bill is mandatory spending, including our farm price support programs. Only one-fifth of the bill, 20 percent, is discretionary. Half of the spending in the bill is for food programs which keep America's people the best-fed people on Earth.

The bill, as reported, is about $260 million in discretionary spending above the President's request, but a little more than $3 billion below this year's level due to the absence of natural disaster and other emergency farm provisions.

Earlier, during the discussion on the rule, we discussed several improvements that should be included in this bill that amendments could make possible, but amendments that were denied in the Committee on Rules.

There was an amendment offered by the gentlewoman from Connecticut (Ms. DELAURO) that would recognize that we need more money for the WIC program, the Women, Infants, and Children feeding program, due to the fact that participation is running 80,000 people more per month than the administration had expected predominantly due to higher unemployment levels.

The amendment of the gentleman from New York (Mr. HINCHEY) and others makes room for helping small specialty crop producers who are facing hard times. He has been successful in dealing with one sector, the apple sector, in this bill.

My own effort adopted by the full committee insists that the integrity of producer votes is protected in the pork checkoff program. It directs funds be spent only on those programs that the producers have approved and this directive has been included in the final bill.

Mr. Chairman, there are also other elements that we still need to work through as we amend here on the floor and then as we move to the Senate: one is the Global Food for Education program, which the gentleman from Massachusetts (Mr. MCGOVERN) and the gentlewoman from Missouri (Mrs. EMERSON) have championed here in the House; improved food safety and increased food inspection need more attention; also new biofuels funding, including ethanol, biodiesel, and biomass-related fuel production to help move America toward energy independence.

There are six titles in this bill, and I just want to highlight a couple major points in each of those.

In Title I, Agricultural Programs, we have been able to take the first steps to fund relocation of some of our important laboratories in Arizona, as well as consolidating and modernizing our key agricultural research facilities in Ames, Iowa.

We are just so happy to be able to make progress there, the most important labs in our country that protect the entire livestock production in our Nation, as well as maintain the best veterinary service that the world knows.

In the APHIS, Animal Planned Health Inspection Service, we have been able to improve by $2 million and increase the buildings account for a facility at the Miami International Airport.

In our conservation programs, the NRCS has scored below the administration request by $25 million.

In rural development in title III, the bill increases these important programs by $87 million over the research request, in the important account of water and wastewater disposal grants funding is included at a level of $75 million over the request.

There is a million dollars included for rural cooperative development grants beyond the request, and $3 million to restore the rural telephone loan program that the administration proposed to end.

In Title IV, Domestic Food Programs, the $18 million in increases above the request will help us to expand the TEFAP program, Temporary Emergency Food Assistance Program, and the Commodity Supplemental Food Program, looking at five new States, Wisconsin, Washington, Pennsylvania, South Dakota, and Missouri.

I mentioned the sufficiency of the WIC program level a little bit earlier. We have to keep our eye on that particularly as we move towards conference with the Senate.

In title V, we have provided a level of 9 million additional dollars in the PL480 title I program above the request level.

In title VI in the Food and Drug Administration, we have provided more than $100 million over the 2001 enacted level. In addition, the bill includes a contingent appropriation of $2.9 million for continued funding of last year's prescription drug importation provision.

Finally, I mentioned the pork checkoff and the apple programs as being included in the final bill that is coming to the floor.

Overall, this bill is a good one and is getting better. It should be one that truly embraces the needs and the challenges of the 21st century.

I will support it and encourage our colleagues to support it. But I also will definitely vote for a number of amendments being offered here on the floor today that can make this bill a hallmark of the best America can do when we as a Congress have the will to do.

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

Mr. BONILLA. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the Chairman of the Committee on Appropriations, my friend.

Mr. YOUNG of Florida. Mr. Chairman, I first want to congratulate the gentleman from Texas (Mr. BONILLA). This is the gentleman's first year as a chairman of a Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, and he has done an outstanding job.

The gentleman came as a seasoned Member. The gentleman took over this very important role as chairman of the subcommittee, and he not only has produced a good bill, but he produced it in record time.

Although, he is a new chairman, he was the first one with a markup, and I congratulate the gentleman.

Mr. Chairman, I also congratulate the gentlewoman from Ohio (Ms. KAPTUR), the ranking minority member, who worked very well in partnership to produce a pretty good bipartisan bill.

As usual, there will be some differences, as we proceed, and proceed we will, but I will urge Members to support the bill and be very logical and realistic as we approach the issue of amendments.

Now, on the subject of amendments. We are trying to accommodate Members, as I announced yesterday, to assess where we were in the afternoon and see if there was some way to get Members out of here at a reasonable time this evening.

It is pretty obvious we cannot complete consideration of this bill today, so I see no reason to go on into the late hours of the night or the wee hours of the morning.

However, in order to arrive at a reasonable adjournment time today, it is going to be necessary for Members to be willing to limit some debate, to agree to some time limits, which the gentleman from Wisconsin (Mr. OBEY) and I are working on this very minute.

Also, I would like for the Members to know that if Members have an amendment that they would like to have considered on this bill, it would be a good idea if they would advise the gentlewoman from Ohio (Ms. KAPTUR) or the gentleman from Wisconsin (Mr. OBEY) on that side or myself and the gentleman from Texas (Mr. BONILLA) on this side so that we can put those potential amendments into the list of the universe of amendments that we have to deal with.

We will be better able to manage this bill if we can do that. I put Members on notice that it would be a good idea to do that as soon as possible.

□ 1415

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

Mr. YOUNG of Florida. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would simply like to repeat what the gentleman just said. For the benefit of all Members on the floor or all Members whose staff may be watching in their offices, every Member is coming up and telling us they want to get out of here early tonight. It is my understanding that the leadership intends to try to make that happen. But we need to know which Members intend to offer their amendment and which Members do not intend to offer their amendments.

So I would ask every single Member on our side of the aisle, if they are contemplating an amendment or a colloquy, because yesterday we took almost 2 hours on colloquies, if they are contemplating any of that, they need to let us know immediately, because we need to do two things.

We need, first of all, to try to establish which amendments are going to be offered today and how much time is going to be taken on them. We have had the cooperation of five or six Members who have told us that they will be happy to settle for 10 minutes a side, for instance. We need to fill out the rest of that. We need to know how far we are going to get in the bill today. Then if we can reach agreement on that, then that enables us to have some idea, perhaps, of what we can package so that we know what we are facing when we get back.

But what I would urge Members not to do to us is to neglect to contact us now, then see their point in the bill passed, so their amendment is not in order, and then try to redraft their amendment as a look-back at the end of the bill. We will not save any time that way.

If Members have amendments, we need them to be prepared now to bring them up today in the regular order on the bill so that we can get out of here at a reasonable time.

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

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for those comments. We are working hard. Now, if we get the cooperation of the membership, we can accomplish quite a bit of consideration on this bill today and still get us out of here at a reasonable time, and we will talk about that time a little later once we see what the universe of amendments will be for today.

With that, again, I want to congratulate the gentleman from Texas (Chairman BONILLA).

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. DELAURO), a very hard-working and able member of our subcommittee.

Ms. DELAURO. Mr. Chairman, I want to thank the gentleman from Texas (Chairman BONILLA) and to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the committee. I thank them for their leadership.

Given the kind of budget constraints that we have, there was a lot of hard work and a good bill that has been produced, though there are a few critical issues that remain that we need to continue to work on.

I also want to say thank you to this subcommittee and the associate staff for all of their help.

The bill addresses many of the urgent needs of American families. Let me just take a moment to focus on the crisis in agriculture today. America's economy and security relies on the strength of agriculture. Yet America's farmers are facing the toughest times since the Great Depression.

Connecticut is a leader in New England's agriculture, in eggs, peaches, milk production per cow. The Nation's oldest agriculture experiment station is just up the street from my home in New Haven. Like other farmers, Connecticut farmers face plunging commodity prices and soaring gas prices. Urban sprawl puts it in the top 10 States in lost farmland. This spring, record low temperatures eliminated almost 40 percent of our peach, pear, grape and apple crops.

I am proud of the funding for programs that reach out and help our farmers: rural development, conservation, pest management, commodity marketing assistance.

This bill also funds food safety efforts, but in my view, as I have expressed before in the House today, does not go far enough. It needs to do more. Americans are more likely to get sick from what they eat today than they were a half century ago, and outbreaks of food sickness are expected to go up by more than 15 percent over the next decade.

Each year 5,000 Americans die from food-borne illnesses, 76 million get ill, and 325,000 are hospitalized. Just 2 days ago, the Excel Corporation recalled 190,000 pounds of ground beef and pork because of possible contamination by deadly E. coli.

The Food and Drug Administration inspects all food except meat, poultry and eggs. Yet to cover the 30,000 U.S. companies that make this food, the FDA has only 400 inspectors. For the 4.1 million imported food items entering the country, the FDA has less than 120 inspectors. To address this crisis facing the families, I will offer an amendment to increase the funds for inspections and other food safety initiatives.

As we move toward the conference, I also would like to work with the chairman to address the funding shortage that threatens WIC. If the administration's unemployment predictions come true, this essential nutrition program for low-income families, which yields more than $3 in savings to the government in reduced spending on programs such as Medicaid, will, in fact, not have enough funds to serve all who are eligible, all eligible women, infants and children.

I look forward to working with the gentleman from Texas (Chairman BONILLA) and the gentlewoman from Ohio (Ms. KAPTUR) to address these important issues and others as we debate the bill.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Chairman, I, too, want to rise in, in a way, admiration of the committee for their work

on this particular piece of legislation, on this bill. It is truly commendable in a situation where profligate spending in this body is the norm, it is commendable to have a bill coming here that is only 1.5 percent above last year's spending and only 1.7 percent above the President's request.

There is no particular program in the bill with which I rise to take issue. I do wish, however, to just briefly discuss a point of concern that I have with the general tenor of our agricultural support payments. It is the fact that welfare, whether it is provided for able-bodied individuals or large corporate farmers, has a corrupting influence on both. The welfare farm subsidies keep land prices high, makes it harder for small farmers to enter into the market. Farm subsidies decrease the incentive for efficiency, which would greatly benefit the agricultural sector.

This is a list, by States, I have a list here from CBO of those States that receive a percentage of their net farm income as a result of government payments. It is quite astounding. In 1999, the State of Illinois had 112 percent of its net farm income a government check; Indiana, 93 percent; North Dakota, 93 percent; Iowa, 87 percent; Missouri, 78 percent; Montana, 77. At least 12 States have government checks representing more than 50 percent of their net farm income. This is an unsustainable activity, and I urge the committee to think carefully about it in the future.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. HINCHEY), a member of our subcommittee who single-handedly turned this bill on end and was able to get language to deal with specialty crop producers across our country, a very, very hard-working and distinguished member of our subcommittee.

Mr. HINCHEY. Mr. Chairman, I thank the gentlewoman from Ohio (Ms. KAPTUR), ranking member, for her leadership on this committee and on this issue. I also want to express my appreciation to the chairman of the subcommittee. I think that the gentleman from Texas (Mr. BONILLA), in his first year as chairman of the subcommittee, has produced a very good bill, and it has been a pleasure working with him in this endeavor.

This bill adds $260 million to the President's request for the U.S. Department of Agriculture. It increases funding for farm programs, conservation, rural development, education and research, nutrition, and food safety. When you add in the $5.5 billion in emergency agricultural spending that the House passed earlier this week, total funding for these programs is substantially increased over last year.

As with any of these bills, of course, it could be even better. I think we should have made in order the amendment of the gentlewoman from Connecticut (Ms. DELAURO) to increase funding for food safety as well as the amendment of the gentlewoman from Ohio (Ms. KAPTUR) to fund the Global School Lunch Initiative.

But the gentleman from Texas (Chairman BONILLA) has written a balanced bill that addresses important priorities for rural America.

The bill also includes $150 million for a market loss assistance program for apple growers. I offered this provision in committee with the gentleman from New York (Mr. WALSH) and the gentleman from New York (Mr. SWEENEY), and it was adopted by a strong bipartisan vote of 34 to 24.

I appreciate everything that the gentleman from Texas (Chairman BONILLA), the gentleman from Florida (Chairman YOUNG) and the gentleman from California (Chairman DREIER) have done to protect this funding.

I also would like to thank the gentleman from Washington (Mr. HASTINGS) and the gentleman from New York (Mr. REYNOLDS) for their parts in writing the rule as well.

The U.S. apple industry is suffering serious financial hardships for the fifth straight year as a result of low prices, bad weather, and plant diseases. During this time, the total value of U.S. apple production fell more than 25 percent, and losses from the 2000 crop alone will probably top $500 million. This is a nationwide figure and includes losses, not only in New York, but also in Massachusetts, Michigan, Washington State, Pennsylvania, and every other place where apples are grown as a commodity crop.

Some of the apple losses can be blamed on foreign competition, the Chinese, for example, who were found guilty of dumping apple juice concentrate into the United States at prices below production costs. Increased tariffs have not significantly improved the price of apple juice in the last year.

Apple producers in New York and the Northeast watched the value of their crop decline as a result of severe hail damage. In Michigan, growers suffered a crippling epidemic of fire blight that destroyed thousands of acres of orchards.

Compared with the billions of dollars that Congress routinely sends to commodity producers, $150 million is a drop in the bucket. This payment, however, will mean the difference between life and death for many growers across the country.

Mr. Chairman, apple growers face the same market, regulatory, trade and weather conditions that make the double AMTA payments necessary for row crop farmers. It is preposterous that our foreign policy differentiates so radically between them.

This is a good bill, Mr. Chairman. I am happy to support it.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Chairman, I have an amendment at the desk that I intend to withdraw, but first I would like to engage the chairman in a colloquy.

Mr. Chairman, I rise to acknowledge a job well done by the chairman and the ranking member. Agricultural programs are often arcane and seem to benefit only the agricultural community, but through the chairman's leadership, the committee has produced a sound bill that benefits not only the agricultural community, but the Nation as a whole.

It is my understanding that the constraints placed upon the committee prevented funding for nearly all new research projects. One such unfunded project would have been undertaken by researchers at Auburn University, one of the leading agricultural research institutions in the country. This project sought to ensure public health through the development of improvements in poultry.

Mr. Chairman, this study, which I strongly support, will continue safely and efficiently producing poultry, and in an effort to address the environmental, human and animal concerns, I ask for your immediate consideration of a $1.3 million human health, poultry-byproduct study at Auburn University. This study will determine the risks associated with poultry production and the contributions the poultry community can make to environmental stewardship and food safety through the development of innovative techniques documenting the presence of pathogens in the various phases of the production cycle and instituting techniques to eliminate them. This study, Mr. Chairman, will safeguard public health, the end-use consumer and the environment, all at minimal taxpayer expense.

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

Mr. RILEY. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, first, I want to acknowledge that the gentleman from Alabama (Mr. RILEY) has worked very hard on this issue that is very important to Auburn University, and I would be pleased to work with the gentleman as we go to conference on this issue. It is going to be a difficult issue, and the gentleman and I have had discussions about that before, but we are going to give it our best shot. Again, I know how significant and how important it is to the folks in Alabama.

Mr. RILEY. Mr. Chairman, I thank the gentleman from Texas (Chairman BONILLA) for his time and his consideration. I look forward to working with him.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. BOYD), a member of our subcommittee, a rancher, and one of the most knowledgeable members of our subcommittee.

Mr. BOYD. Mr. Chairman, I want to thank the gentlewoman from Ohio for yielding me this time. I want to commend the gentleman from Texas (Mr. BONILLA), my chairman, and the gentlewoman from Ohio (Ms. KAPTUR), my ranking member, and their staff for their good work they have done on this bill.

□ 1430

Is it perfect? No, it is not perfect, but few things are. I believe this bill is as fair and as balanced a bill as is possible given the 302(b) allocations that we are working with.

The committee has produced a bill that is less than the committee appropriated last year but slightly more than the President requested for discretionary spending. We provide an additional $60 million for the Animal and Plant Health Inspection Service, that is APHIS, which is responsible for conducting inspections and quarantine activities to protect animals and plants from disease and pests. Personally, I believe we need to invest even more resources in this area. As we continue to enter trade agreements, making our borders more vulnerable to pests and diseases, and more and more people are traveling to and from our country, we put our farmers in a vulnerable situation.

Many of my colleagues have heard me talk about Citrus Canker in Florida time and again. In 1995, it was reintroduced through the Miami Airport and has now spread throughout the urban areas into the commercial groves and is threatening a $9 billion industry, a $9 billion industry, in Florida. We are spending hundreds of millions of dollars to fight this disease. If it is not eradicated, it could spread to other citrus States like Texas and California. It just makes more sense to invest the resources on the front end to make sure we are able to stop it at the borders.

Also, the threat of hoof and mouth disease entering our country is very real. We need to make sure APHIS has the resources to keep this terrible disease from spreading through our country.

The bill also provides an additional $75 million for ag research, which is of utmost importance to our farmers and consumers and to all the Nation.

More and more we see soil and water conservation linking groups that never before could seem to agree on anything. I am pleased that this is an area that the committee recognizes as being critical and has provided an additional $70 million over last year for a total of $783 million for conservation operations.

There is additional funding for rural housing and development, programs that are important to all of rural America.

Mr. Chairman, I am pleased to rise in support of this bill and encourage my colleagues to support the bill also.

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

Ms. KAPTUR. Mr. Chairman, I would like to inquire as to our remaining time on both sides, please.

The CHAIRMAN. The gentlewoman from Ohio (Ms. KAPTUR) has 13½ minutes remaining, and the gentleman from Texas (Mr. BONILLA) has 21 minutes remaining.

Ms. KAPTUR. Could I ask the gentleman if he has any additional speakers.

Mr. BONILLA. Not at this time, but there may be more coming.

Ms. KAPTUR. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. BISHOP), a distinguished member of the authorizing committee.

Mr. BISHOP. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, this Congress can make historic progress in making agricultural programs that enable farm producers to survive in today's markets and to continue providing the highest quality commodities at the lowest cost to consumers.

The House has already passed a bill providing immediate farm relief, and the Committee on Agriculture has moved aggressively to draft a new multiyear farm bill to secure greater long-term stability. Today, we are considering a bill for the next fiscal year that provides $260 million more than the President's budget; more for research, including some $7 million more in Georgia; more for crop insurance; more in rural electric and communications loans; more for child nutrition and WIC programs; and sets aside more than $79 billion over 10 years in new emergency aid, including $7.4 billion for next year.

While I support a higher overall agriculture budget, it is time to move the process forward and resolve any differences in House and Senate negotiations. Our goal is to save our agricultural system at a time of crisis, and today we can take another step in that direction.

Mr. Chairman, while I am concerned that the bill does not give enough help to small and disadvantaged farmers and research and capacity grants for the 1890 Land Grant Universities, I support the amendment of the gentlewoman from North Carolina (Mrs. CLAYTON) to do that.

Today, Mr. Chairman, we can move the process forward to bring more help to American agriculture. I urge my colleagues to join in support of this bill. It is a good bill, it moves the process forward, takes drastic steps in the right direction; and, hopefully, we can do what we need to do for America's agriculture.

Mr. BONILLA. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Mr. Chairman, I thank the distinguished chairman, the gentleman from Texas (Mr. BONILLA), for yielding me this time; and I rise for the purpose of a brief colloquy.

As I am sure the chairman is aware, a serious threat has sprung up in wheat growing areas making the lives of our already-struggling farmers even more difficult. A fungus called Karnal bunt has been found in my district as well as in the district of our colleague, the gentleman from Texas (Mr. STENHOLM). While Karnal bunt poses no threat to humans or animals, it can make wheat kernels and flour ground from them unpalatable. At this time, a few counties have been quarantined. It appears it has been well contained, but we will have issues of compensation and appropriate action before us.

I have been working with the chairman and ranking member of the full committee, the gentleman from Texas (Mr. COMBEST) and the gentleman from Texas (Mr. STENHOLM), as well as the chairman of the Subcommittee on Conservation, Credit, Rural Development and Research, the gentleman from Oklahoma (Mr. LUCAS), but I would request the distinguished gentleman's continued assistance in working with USDA and the administration to deal with this issue appropriately and to deal with those who have been affected fairly.

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

Mr. THORNBERRY. I yield to the gentleman from Texas.

Mr. STENHOLM. I thank my friend for yielding to me, and I would like to say that the situation the gentleman has described is accurate, but here are the facts to date:

Seven producers affected, 10 elevator operators affected, 17 fields tested positive, 1.4 million bushels contaminated, and 21 bushels yet to be tested. An elevator operator in my district first discovered the fungus and bunted kernels in a load of grain delivered to his facility.

For these and many other reasons, I join my colleagues in working with USDA to contain this outbreak and ensuring the critical assistance provided to producers, elevator operators, and others in agribusiness who have seen their livelihoods put on hold.

So we look forward to working with my colleague, with the chairman, and with USDA, who are on top of this, and APHIS, to make sure that we contain it. It is extremely important to our industry.

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

Mr. THORNBERRY. I yield to the gentleman from Texas.

Mr. BONILLA. I thank my friend for yielding, and I would be more than happy and enthusiastic about helping my friend work on this problem. This is not a new problem for wheat producers. Accordingly, we will work to do everything possible to get USDA to act

in a proper way, not only with the problem but to assist producers with whatever ramifications may occur.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. THORNBERRY. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I would like to thank my chairman for generously yielding that minute, and I just want to say that I share the gentleman's deep concern about what this particular condition can do to our export market.

We had a situation a couple of years ago where we had USDA officials up before our committee and we asked where on the continent does Karnal bunt exist. I said was it Canada? No, we do not have it in Canada. Is it in the United States? No, it is not in the United States. I said, how about Mexico? Absolutely. I said, How did it get over the border? And this goes back to NAFTA and these inspection issues. They could not say whether it came in seed in a car trunk or whether some bird carried it over. But, honestly, we have to work together to try to deal with the conditions that can come in here from other countries.

I would just express to the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, to the ranking member on the authorizing committee, and to the gentleman from Texas (Mr. THORNBERRY) that this Member is vitally interested in that problem, and he has my full cooperation on it.

Ms. KAPTUR. Mr. Chairman, I yield myself 30 seconds to say, however, that the costs of remediating that should not only be borne by the public sector. That is, if we are going to have problems related to trade, those participating in trade ought to bear the costs of what goes wrong in the transaction. What has been happening within USDA is we have been transferring the cost of trade to the public sector, and the private entities that benefit have not been carrying their fair share of the load.

So let us hope we can find a solution to that that is fair to all.

Mr. Chairman, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON), a very, very esteemed member of the authorizing committee, and one of the hardest-working Members of this Congress.

Mrs. CLAYTON. Mr. Chairman, I thank the gentlewoman for yielding me this time. I want to commend both the chairman and the ranking member for their time and effort. They have been given a very difficult task of meeting the ever-demanding needs of the agricultural sector in the face of a difficult economy for agriculture, but also in the face of a number of environmental threats and trying to move us into the 21st century. They also have been given a very tight allocation, and I understand they are trying to work within the budget. I am on the Committee on the Budget, so I know the constraints that were imposed upon them.

There are many things they did very, very well; and I want to commend them on that. Indeed, they did increase allocations for APHIS, which I will talk a little more about, and that is desperately needed. Those are some current threats that they are trying to provide sufficient funds to address those issues. They also recognized the ever-demanding need for research for agricultural communities and our institutions. Again, I think we have an opportunity to make sure as we increase those research dollars that there is some equity and parity among the institutions that we have. I will have a chance to discuss that a little later.

So I want to commend them for all the things they have done. However, I do want to point out a couple of areas that I think we should give consideration to in the future. Although there were new dollars for APHIS, there is still environmental impact issues that we just heard about, the issue of the wheat. The funding in the bill is certainly to be commended. I had raised an amendment in the supplemental that was not approved, although in the notes that went forward, they acknowledged there was a need; and I want to say that we need to at least make the case to our Senator friends that we need to do even more. And as we write the farm bill, hopefully, we will be mindful of that fact.

Nutrition, which is very dear to my heart, I want to commend the Committee on Appropriations for what they have done in increasing those areas. However, I would be remiss if I did not mention that WIC has identified that there is a need for 100,000 more eligible pregnant women and their children who may not receive basic needs. This is an issue I think we can do better on. I do not have an amendment for it, do not propose to have an amendment on it; but I just wanted to acknowledge that it is an area where I think we all would acknowledge we need to do more.

In conclusion, Mr. Chairman, I plan to vote for this bill. I also plan to try to make this bill even better. It is a good bill that could be better.

My final point is that I had hoped that the Kaptur amendment for the global lunch program would have been in order by the Committee on Rules. That is not the problem of the agriculture appropriation, but it is an issue for this Congress to recognize that we have an opportunity here to not only feed our children but to respond to hungry children across the world.

Mr. BONILLA. Mr. Chairman, I yield myself 4 minutes.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Chairman, I thank the gentleman for agreeing to this colloquy.

I want to address the pressing need of adequate funding for the WIC program. At current funding levels, States may be unable to serve approximately 200,000 low-income mothers, infants and children. From my State of Connecticut alone, 1,300 people would not be served.

We know that the WIC program currently serves about 47 percent of all infants born in the United States, and we know the WIC dollars are excellent investments. Every dollar spent on WIC yields more than $3 in savings to the government in reduced spending on programs such as Medicaid.

WIC has contributed to better birth outcomes and reduction in childhood anemia, key indicators of the health of American children. The program provides mothers, infants, and children with nutritious supplemental food packages, nutrition education and counseling, and a gateway to pre- and post-natal health care. The program also reduces fetal deaths and infant mortality and reduces low birth-weight rates.

I might just say we have an average participation rate for this fiscal year at about 7.2 million. That reflects the average participation for the first half of the year through March. That historically is the kind of participation that we have seen in the past. December and February are always the lowest participation months. Last year, average participation for the first half of the year was nearly 50,000 below average participation for the year as a whole. According to the Center for Budget and Policy Priorities, average WIC participation for the first 8 months of fiscal year 2001 was 80,000 higher than average participation for the first 6 months of the year.

Mr. Chairman, I have a concern that when unemployment increases, as it is doing, so does the poverty rate. And we need to understand that the WIC participation cannot increase as unemployment rises if none of the families that are eligible for WIC as a result of increased unemployment enroll.

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I think if we are looking at the kinds of unemployment rates where there is the view that that unemployment rate is going to rise, then we are going to see an additional number of people who need to take advantage of the WIC program. We should do this now. State WIC programs make their decisions this fall about how to run their programs. As we move toward conference, and there are 302(b) reallocations, I would like to work with the chairman to address the potential funding shortage for the WIC program. If the administration's unemployment predictions come true, we will see that this very

essential program will not have enough funds to serve all eligible women, infants and children.

Mr. BONILLA. Mr. Chairman, reclaiming my time, I would be pleased to work with the gentlewoman from Connecticut (Ms. DELAURO) on this issue. This program has widespread support of the Members in the whole House. As a result of the gentlewoman's efforts, the subcommittee has placed a priority on the program. We are aware that WIC participation levels can fluctuate above and below those forecast in administration budgets.

I look forward to continuing my work with the gentlewoman to address the changes that may be brought on by adjustments in caseloads, and I thank the gentlewoman from Connecticut (Ms. DELAURO) for her efforts.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, even the New York Yankees sometimes lose, and it has been known that on occasion the Los Angeles Lakers lose a ballgame. But, Mr. Chairman, one organization never loses, and that organization has hundreds of victories to its credit and zero defeats in the United States Congress, and that is the pharmaceutical industry.

For decades now, good people in the House and Senate, Democrats and Republicans, have attempted to do something about lowering the cost of prescription drugs in this country so that Americans do not have to pay by far the highest prices in the world for the medicine they need. And year after year with lies, distortions, well-paid lobbyists, massive amounts of advertising, and millions in campaign contributions, the pharmaceutical industry always wins. Americans die and suffer because they cannot afford the outrageous cost of prescription drugs, and we remain the only country in the industrialized world that does not in one way or another regulate the cost of prescription drugs.

As part of this bill, the gentlewoman from Connecticut (Ms. DELAURO), the gentleman from New York (Mr. CROWLEY), the gentleman from California (Mr. ROHRABACHER) and the gentleman from Texas (Mr. PAUL) and I will be introducing an amendment which is exactly the same as the Crowley amendment that 363 Members of this House voted for last year. This amendment will serve as a placeholder so we can move the reimportation bill forward that was passed overwhelmingly last year, but was not implemented.

In a globalized economy, prescription drug distributors and pharmacists should be able to purchase and sell FDA safety-approved medicines at the same prices as in other countries. The passage of reimportation will lower the cost of medicine by 30 to 50 percent and enable Americans to pay the same prices as people in Canada, Europe, Mexico and all over the world.

Mr. Chairman, this amendment is supported by the Alliance for Retired Americans; the Children's Foundation; Church Women United; The Communication Workers of America; Families U.S.A.; The National Education Association; Network, a national Catholic social justice lobby; the Presbyterian Church; Public Citizen; The Service Employees International Union, SEIU; and the Universal Health Care Action Network.

Mr. Chairman, every time anyone comes up here to take on the pharmaceutical industry, their disinformation campaign goes forward; and this time in opposition to this amendment the issue is, quote/unquote, ''safety.'' Every Member here should understand that this amendment does nothing to compromise safety, it only makes it possible to move the reimportation bill that we passed last year forward.

Ms. KAPTUR. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), who has fought so hard for the Global Food and Education Initiative.

Mr. MCGOVERN. Mr. Chairman, I rise in support of this bill; and like many of my colleagues, I hope more funds may become available as we move forward in the appropriations process for critical programs that protect American farmers, conserve our soil and water, provide food aid abroad, and address hunger at home.

I would like to speak for a few moments about one such program. The Global Food for Education Initiative began last year as a pilot program. I want to make clear based on the report language accompanying this bill that the committee expects this program to continue through fiscal year 2002, and in turn this program will provide approximately 9 million hungry children in 38 countries with at least one nutritious meal each day and a chance to go to school.

The report accompanying H.R. 2330 contains strong and explicit language in support of this program saying, ''The committee expects the Secretary of Agriculture shall continue in fiscal year 2002 the Global Food for Education Initiative program implemented in 2001 at the level implemented in fiscal year 2001. The assistance provided under this section shall be in addition to other demands for section 4169(b) and Public Law 480 title II commodities.''

Mr. Chairman, I thank the gentleman from Texas (Mr. BONILLA), the gentlewoman from Ohio (Ms. KAPTUR), and the gentlewoman from Missouri (Mrs. EMERSON) for their leadership. This program, first proposed last year by former Senators George McGovern and Bob Dole, needs to be permanently established and authorized. Nothing illustrates this more than the difficult debates in the Committee on Appropriations and the Committee on Rules, where Members of both parties who support this initiative were faced with a difficult scoring issue because the program is funded under CCC authority.

The gentlewoman from Missouri (Mrs. EMERSON), the gentlewoman from Ohio (Ms. KAPTUR), and the gentleman from Ohio (Mr. HALL) have introduced H.R. 1700 to make this pilot initiative a permanent program so that this debate never happens again. I call upon my colleagues to join the broad bipartisan coalition of Members who have cosponsored H.R. 1700.

Mr. Chairman, I respectfully ask Secretary of Agriculture Ann Veneman to use her executive authority to extend funding for this program for fiscal year 2002. I also call upon the Secretary to provide immediately the basic administrative funding requested by such organizations as Catholic Relief Services and CARE so that they may carry out the pilot program in an efficient and productive manner. For the past 50 years, these organizations have implemented many of our best food and development programs. They are proven partners, and they guarantee that our food aid programs have an American face and character on the ground. Along with our farmers, they are among our best ambassadors abroad, and they deserve our support.

Mr. Chairman, I thank the chairman and ranking member for their work on this bill, and I urge my colleagues to support it.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to myself.

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

Mr. BONILLA. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, the Repaupo Creek watershed in my district in New Jersey is in urgent need of a replacement tide gate and dike restoration project. The project is needed for several reasons, the most important of which is to provide flood protection for the residents of Logan and Greenwich Townships in Gloucester County. The Department of Agriculture's Natural Resource Conservation Service has the authority to undertake projects on watersheds that are smaller than 250,000 acres. This project meets that requirement.

Although the Repaupo Creek is a small watershed, the tide gate sits on the Delaware River, and there is some question whether a waiver will be required to do this project.

Given the urgent need for this work to be completed, and given that New Jersey officials of the Department of Agriculture have expressed a desire and willingness to work on this project, I ask the chairman on behalf of the subcommittee to agree that there is jurisdiction under present law for USDA to

do the work repairing the Repaupo tide gate.

Mr. BONILLA. Mr. Chairman, reclaiming my time, while I have not examined this issue in particular in detail, I assure the gentleman from New Jersey that I will work with him on this and will consider inserting language into the final report regarding this matter.

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

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

Mr. Chairman, as we close down general debate, I want to state my sincere thanks to the gentleman from Texas (Mr. BONILLA) for his openness in working through this bill. He has been responsive to all of our Members. We have had some testy moments at the subcommittee and full committee levels, but we have managed to keep walking forward; and I congratulate the gentleman on this first bill that he has brought to the full House.

Mr. Chairman, regarding the issue of Karnal bunt and the wheat supply in Texas, a couple of years ago post-NAFTA, we had a situation in Arizona and in Texas, and I believe even in parts of California, where it was suspected that this fungus had moved into our wheat supply. This is a really serious issue. It essentially can make our wheat product unexportable. Already we are having trouble in our wheat markets as China now exports to us more wheat than PNTR ever anticipated. Now we have this real contamination inside our country.

We need USDA's attention to this issue. I am going to enter into the RECORD a Sunday, June 24 article from the Associated Press on this question. It explains one of the reasons we fought so hard in this budget and in this bill for additional help for the inspector general, additional help for the Animal, Plant Health Inspection Service so we could have timely inspections and also avoid of these problems in the first place.

Mr. Chairman, this bill is not perfect. Let us hope as we move toward the Senate it can be made even better. But we ask for the membership's support. In closing down this general debate period, I would hope that we can move through the amendments in a very expeditious manner so Members can catch airplanes late tonight in order to get home.

[From the Washington Post, June 24, 2001]

USDA WHEAT DISEASE REACTION FAULTED

GROWERS SAY THE SPREAD OF KARNAL BUNT FUNGUS COULD BE CRIPPLING

(By Roxana Hegeman)

ANTHONY, KAN.—Bureaucratic bungling by the U.S. Department of Agriculture has allowed the spread of a plant disease that could prove as devastating to wheat exports as foot-and-mouth disease has been to European livestock, farm groups said.

Wheat growers in Kansas, Oklahoma and Texas say the USDA responded too slowly to an outbreak of Karnal bunt at the southernmost edge of the nation's wheat belt just as harvest season was getting underway.

Karnal bunt is a fungus that is harmless to people but sours the taste and smell of flour made from infected kernels. It also slightly cuts production in infected fields. The disease's main impact is economic: 80 countries ban imports of wheat grown in infected regions.

That could be as crippling for American growers, who last year produced nearly $6 billion of wheat, as would be the discovery of foot-and-mouth disease in U.S. livestock, said Brett Myers, executive vice president of the Kansas Wheat Growers Association.

Europe's foot-and-mouth outbreak has cost millions of dollars for the slaughter of some 3 million animals and a ban on exports.

The suspected Karnal bunt contamination was first reported to the USDA on May 25, and Michael Bryant, co-owner of the elevator in Olney, Tex., that found it.

But it was seven days before the USDA's Animal and Plant Health Inspection Service (APHIS) confirmed the finding, and 15 days passed before it quarantined the first affected counties.

''Their reaction to the situation was not as timely as we would have liked,'' said Kansas Agriculture Secretary Jamie Clover Adams.

Charles P. Schwalbe, deputy director of APHIS's plant protection and quarantine program, said his agency sent the sample away for testing at a national lab instead of using a local one to make sure it had accurate and legally defensible information before taking action.

''The decisions that emerge . . . mean livelihood to people from time to time,'' Schwalbe said.

The Karnal bunt found in Throckmorton and Young counties in Texas were the first confirmed cases in the nation's wheat belt, an area extending from central Texas to Alberta, Canada.

On June 19, concern grew as the USDA added neighboring Archer County to the quarantined area, followed by Baylor County the next day. One elevator has also been quarantined in Fort Worth, about 150 miles southeast.

Karnal bunt, which originated in India, was first detected in the United States in 1996 in Arizona and California. It has since spread to southern Texas and New Mexico.

In Arizona the amount of land used to grow wheat dropped almost 50 percent after a quarantine was imposed in 1996 in four counties, according to the Arizona Agricultural Statistics Service.

But Arizona is a minor durum wheat producer, and U.S. wheat growers have reassured overseas buyers that the disease was far from the nation's major winter wheat producing region. Winter wheat, which is planted in the fall and harvested in the spring, accounts for about two-thirds of U.S. wheat and is used primarily for bread. Durum wheat is used for pasta.

With half the winter wheat going to the export market, the discovery of the disease at the southernmost edge of the nation's breadbasket just as the wheat harvest was moving north sent shock waves through the wheat belt.

State regulators feared that custom harvesters—cutters who follow the ripening wheat harvest from Texas to the Canadian border—would spread the fungus.

Oklahoma, just 50 miles from the two Texas counties where the disease was first discovered, immediately closed its borders and ordered combines coming into the state to be blocked and inspected. Harvesters from infected areas without a USDA certification of cleanliness were turned back.

''We need to preserve our heritage and our wheat industry. The spread of Karnal bunt in Texas should be considered a threat to Kansas wheat,'' said Kansas Gov. Bill Graves (R). Kansas is the nation's biggest wheat producer, with a $1 billion crop and nearly 10 million planted acres.

Rep. Frank D. Lucas (R-Okla.) has been pursuing the issue after a request from growers for a congressional investigation into the USDA's handling. His office said he has not decided whether to ask for an inquiry.

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

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. NETHERCUTT), a very distinguished member of the subcommittee.

Mr. NETHERCUTT. Mr. Chairman, I thank the gentleman for yielding me this time and for his kind remarks.

Mr. Chairman, I am delighted to stand in support of this bill. We have had a lively and valuable discussion on both sides of the aisle on various issues.

Mr. Chairman, I think the subcommittee chairman has done a wonderful job to put this bill together in essentially record fashion. I am grateful to him for his leadership.

I am supportive of this bill because it has a strong research component for agriculture, production agriculture, to be sure that it has the tools and the information and the technology necessary to compete in a world market. That is what we need for our farmers.

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I also am pleased that this bill under the chairman's leadership has increased food safety and inspection. We have the safest food supply in the world and we must make sure that we acknowledge that and do not denigrate it in debate on the issue, because we have a very safe system. We need to keep it safe. We will keep it safe with the resources that are available in this bill.

At the subcommittee and the full committee level, I had raised the issue of ecoterrorism. When we spend multimillions of dollars on agriculture research but yet some of that research gets destroyed by extremists, ecoextremists who seek to destroy agriculture research, then we need to make sure we, as taxpayers and as Members of this body, protect that research.

This is not the place or the time for that issue and the discussion surrounding it, but it is an issue that we need to attend. My expectation is that we will attend to it as we go through the legislative process later in this year. But I think those of us who care deeply about agriculture need to be critically aware that ecoterrorism is a reality in this country. We need to protect the research and the researchers.

I urge my colleagues to support this bill.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I want to thank the gentleman for this opportunity to express my strong support for his bill and point out a small provision of it that is extremely important to the farmers of the northeastern part of the Nation, particularly to those in Connecticut. I strongly support the increase in funding for the EQIP program, the Environmental Quality Incentives Program, because it will help us achieve our national attainment goals in the area of clean water.

The AFO/CAFO regulations are expensive. My State has adopted all of the implementing policy to assure compliance with the AFO/CAFO regulations; and the only reason frankly, the only possible way that small farmers can survive these costly regulations is through the technical assistance that the EQIP funds provide to them to help them determine what projects will, in fact, contain runoff. These funds give them some help in offsetting the costs of developing manure management programs and other modern approaches that will enable them to make a significant contribution to the cleanliness of our waterways and also, in the long run, to the revitalization of Long Island Sound.

In New England, we have very steep, hilly farms. We also have more rainfall than other parts of the country. So the burden on us is, frankly, far higher than the burden on other parts of the country. We are not a part of the country that benefits much from the farm bill through its crop assistance and other programs, but so some of its conservation dollars, and these EQIP dollars, are extremely important to us. I thank the chairman for uncapping them and making more resources available for compliance with the AFO/CAFO requirements.

Mr. BONILLA. Mr. Chairman, our Committee has worked hard to bring a good bill to the House. We have made prudent recommendations for the use of the budgetary allocation available to us, and we have done yeoman work in keeping the bill free of contentious issues such as trade policy, that have caused concern in prior years. I think we have a very good bill, and I know that we will have a good debate. In closing, I would certainly hope that everyone would support this bill on final passage.

Mr. KIND. Mr. Chairman, today the House is considering funding for the fiscal year 2002 Agriculture appropriations bill. This bill provides funding for U.S. Department of Agriculture and the Food and Drug Administration.

As a Member of Congress from a large agricultural district who is also concerned about this Nation's long-term fiscal health, I am concerned that this measure is yet another repeat of past agriculture spending packages—where Congress is providing fewer-and-fewer farmers with financial assistance.

The failure of this Congress to make fundamental changes to existing agriculture policy, which had led to many farmers being driven off their land due to the perverse financial incentives, is beyond reasonable belief.

It is my hope that future agriculture policy will be equitable, providing federal assistance—when needed—to all producers. It is my hope that future agriculture policy respects the broad diversity of rural America. It is my hope that future agriculture policy provides for clean and safe drinking water, along with improved soil and air quality.

Mr. Chairman, this measure obviously covers more than just financial assistance to American farmers. In addition, it provides important funding for nutrition programs, food inspection, and safety. For these reasons, it is very important that this measure is passed.

Mrs. MALONEY of New York. Mr. Chairman, in January 1997, when the Asian Longhorned Beetle was first spotted in the United States right in the heart of Brooklyn, I called on the Department of Agriculture to do everything in its power to eradicate this tree-killing beetle before it devastated the Northeast urban forestry network. The strong efforts from the Agriculture Department, in close coordination with State and city agencies, slowed the beetles spread significantly, but sadly, New York has lost more than 5,000 trees in less than 6 years from beetle infestation.

In recent years, I have held numerous community forums on the issue to raise awareness about the beetle's devastating effects and to discuss strategies to prevent the spread of beetle infestation.

I have also worked closely with my colleagues in the New York delegation to secure adequate funding to stop the beetle before it spreads deeply throughout the Northeast region and into the rest of the country.

My aim has always been the protection of our farmlands, our trees and our forests through the containment and complete eradication of the Asian Longhorned Beetle.

This year's Agriculture Budget provides crucial resources toward that end, with $35 million appropriated to fight the Asian Longhorned Beetle, citrus canker, and the plum pox virus. This is a significant increase in funding for a very significant problem. Unchecked, costs from the spread of the Asian Longhorned Beetle could rise as high as $41 billion nationwide.

I want to thank Congressman BONILLA and Congresswoman KAPTUR for including these significant funds to battle the beetle.

I also want to note that the Interior budget currently includes almost $24 million for the U.S. Forest Service for the Cooperative Land Forest Health Management program specifically to fight the spread of the gypsy moth and the Asian Longhorned Beetle.

Resources for the fight against beetle infestation are especially important to New York City. Just this month, 60 trees from Calvary Cemetery in my district in Queens were cut down, chipped, and burned to the root because of beetle infestation. Additional trees were recently cut down in Astoria and Woodside Queens.

In fact, since the beginning of this year, the Brooklyn, Queens region has lost close to 300 more trees to beetle infestation. Manhattan has lost more than 50 trees and the Bayside area lost more than 150 trees. The total loss for the New York City, Long Island area is up to 5,300 trees.

The beetle is simply devastating large portions of the region. With new resources, we will be able to fund areas where there have been significant shortfalls. We will be able to train our residents to identify the beetle and respond appropriately if they spot one. We will be able to increase funds for tree inspections, removal, and reforestation efforts.

Also, we will continue to move forward with new treatments for healthy trees that help prevent beetle infestation. In short, we will battle this menace on all fronts to protect our trees, our environment, and our quality of life.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 2330, the Agriculture appropriations bill for fiscal year 2002.

This Member would like to commend the distinguished gentleman from Texas (Mr. BONILLA), the chairman of the Agriculture Appropriations Subcommittee, and the distinguished gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the subcommittee, for their hard work in bringing this bill to the floor.

Mr. Chairman, this Member certainly recognizes the severe budget constraints under which the full Appropriations Committee and the Agriculture 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.

First, this Member is pleased that H.R. 2330 provides $461,000 for the Midwest Advanced Food Manufacturing Alliance (MAFMA). The alliance is an association of 12 leading research universities and corporate partners. Its purpose is to develop and facilitate the transfer of new food manufacturing and processing technologies.

The MAFMA awards grants for research projects on a peer review basis. These awards must be supported by an industry partner willing to provide matching funds. During the seventh year of competition, MAFMA received 39 proposals requesting a total of $1,382,555. Eleven proposals were funded for a total of $348,147. Matching funds from industry for these funded projects total $605,601 with an additional $57,115 from in-kind funds. These figures convincingly demonstrate how successful the alliance has been in leveraging support from the food manufacturing and processing industries.

Mr. Chairman, the future viability and competitiveness of the U.S. agricultural industry depends on its ability to adapt to increasing worldwide demands for U.S. exports of intermediate and consumer good exports. In order to meet these changing worldwide demands, agricultural research must also adapt to provide more emphasis on adding value to our basic farm commodities. The Midwest Advanced Food Manufacturing Alliance can provide the necessary cooperative link between universities and industries for the development of competitive food manufacturing and processing technologies. This will, in turn, ensure

that the U.S. agricultural industry remains competitive in an increasingly competitive global economy.

This Member is also pleased that this bill includes $200,000 to fund the National Drought Mitigation Center (NDMC) at the University of Nebraska-Lincoln. This project is in its fourth year and has assisted numerous States and cities in developing drought plans and developing drought response teams. Given the nearly unprecedented levels of drought in several parts of our country, this effort is obviously important.

Furthermore, this Member is also pleased that the measure provides $700,000 for efforts at the University of Nebraska-Lincoln to improve biomass for feedstocks. The research will benefit the environment and the agricultural economy. It also holds the potential to greatly reduce the nation's dependence on foreign sources of energy.

Another important project funded by this bill is the Alliance for Food Protection, a joint project between the University of Nebraska and the University of Georgia. The mission of this alliance is to assist the development and modification of food processing and preservation technologies. This technology will help ensure that Americans continue to receive the safest and highest quality food possible.

This Member is also pleased that the legislation funds the following ongoing Cooperative State Research, Education, and Extension Service (CSREES) projects at the University of Nebraska-Lincoln: Food Processing Center: $42,000; non-food agricultural products: $64,000; sustainable agricultural systems: $59,000; Rural Policy Research Institute (RUPRI) (a joint effort with Iowa State University and the University of Missouri): $1,300,000.

In addition, this Member is pleased that the bill directs the Agriculture Research Service to collect and focus $300,000 at the University of Nebraska-Lincoln to address sorghum fungal plant pathology concerns. This funding will fill a critical need for fungal pathology research for sorghum in the central Great Plains and the United States.

This Member would also note that H.R. 2330 includes $99.77 million for the section 538, the rural rental multifamily housing loan guarantee program. The program provides a Federal guarantee on loans made to eligible persons by private lenders. Developers will bring 10 percent of the cost of the project to the table, and private lenders will make loans for the balance. The lenders will be given a 100 percent Federal guarantee on the loans they make. Unlike the current section 515 direct loan program, where the full costs are borne by the Federal Government, the only costs to the Federal Government under the 538 Guarantee Program will be for administrative costs and potential defaults.

Mr. Chairman, this Member certainly appreciates the $3.1 billion appropriation for the Department of Agriculture's Section 502 Unsubsidized Loan Guarantee Program. The program has been very effective in rural communities by guaranteeing loans made by approved lenders to eligible income households in small communities of up to 20,000 residents in nonmetropolitan areas and in rural areas. The program provides guarantees for 30-year fixed-rate mortgages for the purchase of an existing home or the construction of a new home.

Mr. Chairman, in conclusion, this Member supports H.R. 2330 and urges his colleagues to approve it.

Mr. LARGENT. Mr. Chairman, I rise today to express my support for H.R. 2330, the FY 2002 Agriculture appropriations bill. I am pleased that the Appropriations Committee has both supported our farmers and displayed fiscal discipline by remaining close to the President's budget request. This responsible bill addresses the needs of our nation's farmers and ranchers while keeping in mind the desire of American consumers to buy affordable and safe agriculture products.

I want to commend the full committee for passing a number of important amendments. Specifically, I am pleased that employees of the Farm Service Agency will be better able to deliver farm ownership, farm operating, and disaster loans through improved salary and expense funding and through additional resources for agricultural credit programs. This assistance will come as a welcome relief as the workload of this vital agency has grown in response to a weakening farm economy.

I am also pleased with the investment this bill makes in the future safety and health of our citizens and our environment. The research that will be facilitated and advanced through this bill will ensure the continued quality of our food supply by improving safeguards. The conservation programs within the bill also reflect foresight. The desire of farmers to preserve American soil exemplifies the respect and attachment they have for the land in which they are invested.

Lastly, I am encouraged by the Distance Learning and Telemedicine Program which will link rural Americans with resources and opportunities previously available only in urban areas. As we seek a prosperous future for our rural residents, we must find ways to stimulate local economies. This bill advances that goal through education and enhanced services that will enable individuals and families to stay in their hometowns while receiving education and health services. Using technology to provide useful links between rural and urban areas will slow the flight to cities and preserve smaller towns and municipalities, which are vital pieces of the American fabric.

I commend the chairman and all of the members of the committee for crafting this responsible bill.

Mr. TANCREDO. Mr. Chairman, I rise in opposition to H.R. 2330, the Agriculture Appropriations Act, a bill considered on the floor today which makes appropriations for the Department of Agriculture and related agencies. But more specifically, I rise in strong opposition to the increase provided in the bill for the Food and Drug Administration (FDA) and would like to call the House's attention to a problem that one of my constituents has been having with the agency and one that I believe deserves careful consideration by the oversight committees in this chamber.

Recently, the FDA gave final approval of my constituent's Pre-Market Application for both total and partial joint implants after an exhaustive and blatantly biased 2-year review, but not before costing his company over $8 million in legal fees, lost wages, and profits.

In April 1999, I received a phone call and letter from TMJ Implants, a company located in Golden Colorado, in my district, which had been having problems with the review of its Premarket Approval Application of the TMJ Total and Fossa-Eminence Prosthesis. Up until last year, the company was the premier market supplier of temporomandibular joint prosthesis.

Over the last 2 years, I have taken an active interest and an active role in monitoring the progress of TMJ Implants' application, which was finally approved in February. On numerous occasions, I met with Dr. Bob Christensen, president of TMJ Implants, to find out information about the approval of the partial and total joint, and personally talked to FDA Commissioner Jane Henney and to members of the Agency about the status of the company's applications. I was also, and continue to be, in contact with the House Commerce Subcommittee on Oversight, which has sole jurisdiction over the FDA and issues relating to abuse and the internal operations of the agency.

Specifically, I closely followed this case since my office's first contact with Dr. Christensen and TMJ Implants in early May 1999, after a meeting of the FDA's Dental Products Panel of the Medical Devices Advisory Committee was held to review the company's PMA and recommended approval of the PMA by a 90 vote. From this point onward, the FDA engaged in an obvious pattern of delay and deception and even went as far as to remove TMJ Implants' Fossa-Eminence Prosthesis from the market, which had been available for almost 40 years. This had done nothing more than to cause harm to patients and cost the company millions of dollars.

This was done at the same time that the application for TMJ Concepts, a competitor of TMJ Implants, sailed through the process. Several allegations have come to light over the last two years detailing the fact that several Agency employees have worked under the direction of TMJ Concepts' associates.

The agency went so far as to reconvene a new Medical Devices Advisory Committee late last year, with a clear majority of its members lacking the required expertise, which denied the company's application.

It was not until Mr. Bernard Statland, the new Director of the Office of Device Evaluation (ODE) was brought in that the logjam was broken the PMA was quickly approved.

As the above demonstrates, several concerns remain about the process that has taken place over the last two years. It is no secret that everyone involved in this case believes that there have been significant question raised about the process—the sluggish pace of the review of the engineering data for both the total and partial joint and, more importantly, the constant "moving of the goal posts" during the review of both PMAs.

Over the last 2 years, my office has received numerous letters from physicians all across the country—from the Mayo Clinic to the University of Maryland—each describing the benefit of the partial joint and the fact that the partial and total joint results in immediate and dramatic in pain, an increase in range of motion and increased function.

While I am, of course, pleased that the application has been approved by the FDA after

much delay, the circumstances of the last 2 years calls into question the integrity of the agency and, it is for this reason that I bring it to the House's attention.

Dr. Christensen is a true professional and a pioneer in his field and holder of the first patents. His implants are widely accepted as effective and safe throughout the dental and surgery community—indeed, several of my constituents have literally had their lives changed by the procedure. I am convinced that the work of TMJ is and always has been based on solid, scientific principles and the removal of the implants work of TMJ is and always has been on solid, scientific principles and the removal of the implants from the market had been erroneous, contrary to the Agency's earlier findings and the statutory standard that should be applied. This was devastating to thousands in the general public and devastating to the financial status of the company.

Later this year, the House of Representatives will consider legislation reauthorizing the Food and Drug Administration and I would like to urge the House Commerce Committee to hold hearings on the TMJ Implant case and to conduct a thorough investigation into the FDA's review of the Premarket Approval Application of the TMJ Fossa-Eminence Prosthesis.

I would like to take this opportunity to submit into the RECORD two articles from FDAWebview which shed light on the TMJ Implant case.

[From FDAWebview, Feb. 28, 2001]

''FULL DISCLOSURE'' STANDARD IN TMJ APPROVAL OPENS NEW FDA ERA

Instead of FDA tying itself in knots trying to guarantee no inappropriate patient exposures to implanted devices—and stalling a product in mid-review as a result—yesterday's approval of the TMJ Implants Fossa-Eminence Prosthesis set a new ''full disclosure'' labeling standard that lifts that self-imposed burden from the agency and should expedite other product reviews. TMJ Implants' pre-1976 jaw joint devices was stalled for 20 months in a classification PMA review until new Office of Device Evaluation (ODE) director Bernard Statland broke the logjam. In doing this, he was implementing one stage of a bold new Center policy on innovative public use of clinical device information articulated last year by Center director David Feigal—placing such FDA-held information in the hands of physicians and patients.

According to one of the two attorneys who steered the TMJ Implants submission through its FDA ordeal, Mike Cole (Bergeson & Campbell), yesterday's approval is the first he's seen in 25 years of dealing with ODE where the agency stepped back from its ''appropriate use'' worries and left them to physicians and patients to decide, based on full disclosure in labeling of the device's real-world limitations—including the availability of no-device alternative therapies.

Under the Fossa-Eminence labeling's Warnings section is a boxed statement headed, ''The medical literature reports,'' with four bulleted statements:

That many cases of Internal Derangement resolve after non-surgical treatment, or, in some cases, with no treatment at all.

That the complexity of contributing factors in this patient population must be considered in the diagnosis and decision to surgically treat patients.

That replacement surgery, therefore, should be utilized only as a last resort after other treatment options are exhausted or determined not to be warranted in the medical judgment of the physician/dentist in consultation with the patient.

That the Wilkes classification is a guide in determining the severity of the disease. This classification should not be relied on as a sole criterion for surgical treatment.

''It really is a striking difference in philosophy,'' Cole told FDA Webview. ''It discloses that a lot of patients have responded without surgery . . . It describes situations where the doctor arrives at the diagnosis that surgery may be appropriate, but it doesn't prejudge it. Over the years, there have been all these notable instances of concern about off-label use of products and misuse of products, and part of it comes, I think, from a mentality that we have to be 100% sure that it will be used appropriately. As a result, manufacturers have started submitting applications with more and more restricted indication statements in them because that can get through the system.''

Cole and colleague David Rosen (McDermott, Will & Emery) believe the TM) Implants devices had been logjammed at FDA for so long simply because reviewers were afraid the products would be used inappropriately—an FDA syndrome that has effected many other products over the years. ''A lot of times, what it really comes down to is demands for more data, more data, more data,'' Cole explained, ''because the reviewers are not comfortable with the idea that the device ought to be on the market, or available. The way out of that is to keep asking for more information.''

In TMJ Implants' case, he said, review leader Susan Runner ''held what I think was a very honest and sincere concern about the device being used in cases where patients might respond without surgical treatment. Because the studies hadn't been set up to prove exactly what I think we had demonstrated, she had this really deep-seated concern about the product being used, and it just went round and round in circles. We had no apparent instances of misuse of the device, but we were getting nowhere.

''When we had this meeting with Dr. Statland, he got up with a whiteboard and started talkng abut the data, and he said to his people, 'You know, we've got a lot of information here; what we need to do is figure out how we're going to present this information to the doctor so that the doctor and the patient understand exactly where surgery fits in this and make sure we discuss the limitations of the data.' For the first time that I've heard this in 25 years dealing with Center, he said: 'We'll discuss this information in the labeling and we'll let the doctors and the patients decide whether they want to use the device—we won't decide for them.''

Statland, Cole said, stopped the reviewers' agonizing at the point where reasonable assurance of safety and efficacy had been demonstrated, thus preventing the agency from continuing to stray into attempts to secure an absolute guarantee that the product would not be used improperly. ''In a way it's a kind of subtle point, but in a way it's also a sledgehammer point. When Dr. Statland said 'This is what we're going to do,' it was over.''

[From the FDA Webview, Feb. 27, 2001]

TOUGHEST DEVICE APPROVAL CLEARS LAST OF EMBATTLED FIRM'S IMPLANTS

Ending a 20-month, $6 million ordeal for Colorado-based TMJ Implants Inc., CDRH Office of Device Evaluation director Bernard Statland 2/27 approved the last and most important of the company's two PMAs—for the TMJ Fossa-Eminence Prosthesis. Without his personal involvement in the review—including private discussions with several oral surgeons, it would still be bogged down, observed TMJ Implants' attorney, former FDAer David Rosen (McDermott, Will & Emery) who with Mike Cole (Bergeson & Campbell) helped propel the tortured review to its successful conclusion; Rosen ranks this approval at the top of the toughest FDA approvals he has experienced, inside or outside the agency, including both generic drugs and medical devices.

At one point, FDA reviewers allegedly predicted the Fossa-Eminence, or partial jaw joint, would never be approved. The only device of its type every marketed, it attracted heavy reviewer skepticism. Then, last month, the company's two-part total joint, of which the Fossa-Eminence is a component, was approved. This seemed like a consolation prize, because the total had been only a small part of the company's business. TMJ Implants CEO Robert Christensen recalls an FDA manager asking whether the company could not be satisfied just with the total while the agency continued to consider the partial. ''I told them we could not survive on the total,'' he said.

In 1998, as it was moving against his pre-1976 devices pending classification and PMA submission, FDA approved a new competitor's total joint, indicating agency satisfaction with that technology, especially the competitor's plastic cup (Christensen's devices are all-metal).

The final labeling of the Christensen Fossa-Eminence now actually gives his partial device more indications than he originally asked for, and effectively restores the device to all of its marketed uses before FDA's classification process removed it from commerce 20 months ago (the company had reduced the indications it was requesting based on FDA and advisory panel suggestions). The new approval lists these indications:

Internal derangement confirmed to be pathological in origin by both clinical observation and radiographic findings, where the patient has moderate to severe pain and/or disabling dysfunction and has not responded to less invasive, conventional therapy;

Inflammatory arthritis involving the temporomandibular joint not responsive to other modalities of treatment; Recurrent fibrosis and/or bony ankylosis not responsive to other modalities of treatment;

Failed tissue graft;

Failed alloplastic joint reconstruction.

These indications all had to be justified by a prospective clinical study that Christensen and oral surgeons using these devices had provided, but that CDRH's Division of Dental, Infection Control and General Hospital Devices had difficulty evaluating. Statland told FDA Webview he injected himself into the review because it was ''stuck.'' It helped that his wife once had a TMJ condition that did not require surgery—he learned as much as he could about ''this very complex problem, which has many causes and many different treatments.''

As he got into the TMJ Implants controversy, he discovered that the parties' positions had hardened through communication breakdowns, which he was able to soften. ''There was venting on both sides,'' Statland said.

''The message is,'' he told us, ''that those companies that are very conscientious in prospective studies, that have the data, find that that speaks much louder than anything else. Anecdotal information is fine, opinions

of various people and declarations are fine, but we have to look at the numbers. I think that's the take-home lesson.''

With TMJ Implants, Statland said, FDA played ''a consultative role,'' although he would not address Christensen's complaints that the early stages of the review were far from consultative. ''I'm pro-technology,'' he stressed. ''I want good devices to be out there. Those things are going to help people. At the same time, I want full disclosure, so people can make good decisions.''

Rosen acknowledged that after Statland began opening up the issues dividing the company from reviewers, there were holes in the data (e.g., patients lost to follow-up) that the company had provided and that reviewers apparently didn't know how to assess. After one round-table discussion, on 2/9, he and Mike Cole worked through the weekend to extract from the company's prospective clinical study data a subset analysis of patients who had at least three years' experience with the Fossa-Eminence implant. On 2/13, he presented this to the reviewers, and it answered all of their questions. That left only the labeling, which then moved quickly to completion.

Christensen, who had enlisted legal, political and media help in his frustration with the process, told us 2/27 he is now ''very pleased'' with the result, although he thinks FDA owes him for some of his extraordinary costs in restoring his two devices to the market. He has resumed full marketing efforts. By his calculations, he has $6 million to $8 million in losses to make up.

Mr. BONILLA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule and the amendment printed in House Report 107–118 is adopted.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $75,000 for employment under 5 U.S.C. 3109, $3,015,000: *Provided*, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104–127: *Provided further*, That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104–127.

AMENDMENT OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. KAPTUR:

In title I, under the heading ''OFFICE OF THE SECRETARY'' insert after the first dollar amount the following: ''(reduced by $1,700)''.

In title V, under the heading ''FOREIGN AGRICULTURAL SERVICE''–''SALARIES AND EXPENSES'' insert after the second dollar amount the following: ''(increased by $1,700)''.

Ms. KAPTUR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. KAPTUR. Mr. Chairman, throughout the consideration of our bill at the subcommittee level and full committee level, we very, very much wanted to have a straightforward appropriation for continuation of the Global Food for Education program. Thus far we have been unable to achieve that in the base bill and have only been able to achieve report language that essentially says that we, as the Congress, expect that the Secretary of Agriculture will continue a program begun last year that is moving our surplus commodities and food commodities around the world to 38 countries, feeding over 9 million needy children. This program is a win-win for America's farmers and ranchers and definitely a win-win for hungry children around the world, including young girls who are encouraged to go to school and receive a decent ration in whatever country they might live.

Unfortunately, in the base bill, there is not $300 million appropriated to continue this program straightforwardly. Rather, all we have is some language that says to the Secretary, ''We think it's a great idea; we hope you can figure out a way to continue the program; and we expect you to continue the program.''

The purpose of this amendment as drafted would be to symbolically take $1,700 from the Secretary's own accounts and to make those available to the Foreign Agricultural Service. Now, we know $1,700 is not a whole lot, you might be able to buy some stationery with that, but the number 1700 happens to be the number of the McGovern-Emerson bill, which is the bill that would permanently authorize this program for which we would appropriate necessary funds in any fiscal year.

Now, the program as it currently operates is having a tremendous impact around the world. In fact, there are some countries where organizations are now building schools, albeit humble schools, maybe thatched roof schools, where children are coming to receive this food. It has gotten tremendous support from so many of our nongovernmental organizations, like Catholic Charities, like ACDI/VOCA, like Mercy Corps, like CARE, the very organizations that the World Food Program works through all across the world to feed those who are most in need.

So the purpose of this amendment as drafted really is to say, look, why are we involved in this budget charade of saying to the Congress: if we directly appropriate $300 million, we can't do that because we break some sacrosanct budget rule here and, therefore, we can't appropriate real dollars. So we'll just put report language in the bill. Compare this to the other option that, well, if it goes over to the Secretary, she can spend the dollars out of the Commodity Credit Corporation and it doesn't score.

I do not think there is a person in my district that would understand this kind of budget charade. So the purpose of this amendment is really to draw attention to what is happening here and to say that a large number of our Members on this side of the aisle really want this program to have permanently appropriated dollars. We want to be able to do that as a House. We are handcuffed in the procedures allowed through subcommittee and full committee in order to achieve that.

It is not my intention to move forward with this amendment because I do not want to do a fig leaf. I want to do a real appropriation. But I want to use this amendment as a mechanism to allow others who support this program to speak and to, in the strongest language possible, let the administration know that we are serious. Quite frankly, as this bill moves to conference, it is my intention, working with some of my other colleagues, to bring this up in the other body.

Mrs. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the gentleman from Texas (Mr. BONILLA) as well as the gentleman from Massachusetts (Mr. MCGOVERN) and the gentlewoman from Ohio (Ms. KAPTUR) with regard to the continuation of the Global Food for Education Initiative.

Mr. Chairman, the Global Food for Education Initiative was implemented as a pilot program during fiscal year 2001. The Department of Agriculture used $300 million of discretionary funds from the Commodity Credit Corporation to start this pilot program.

I have joined with the gentleman from Massachusetts (Mr. MCGOVERN) and others in introducing the George McGovern-Robert Dole International Food for Education and Child Nutrition

Act of 2001 so that we actually can authorize this program for a 5-year period. However, it is unlikely that this authorizing legislation will be approved in time to provide a seamless transition from the pilot to the authorized program for fiscal year 2002.

An amendment was offered to continue the pilot program at the current level of funding during our markup in the agriculture appropriations subcommittee, but we determined that, for lots of reasons, it would not be part of our bill today. However, I was pleased at the efforts of the gentleman from Texas to include language explaining that the House of Representatives expects the Department of Agriculture to continue the GFEI pilot program in the fiscal year 2002.

Mr. Chairman, it is my hope that the committee supports the international school feeding programs. I would like to see the GFEI continued for the next fiscal year. Is it the gentleman from Texas' expectation that the Department of Agriculture will continue to fund this program at its current level in fiscal year 2002?

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

Mrs. EMERSON. I yield to the gentleman from Texas.

Mr. BONILLA. It is hard to speculate as to what the Department is going to do, but I can assure her that this is something that we are all concerned about. I know the gentlewoman from Ohio (Ms. KAPTUR) has worked on this as well, along with the gentleman from Massachusetts (Mr. MCGOVERN), the gentleman from New York (Mr. WALSH), and others. The subcommittee included report language that encourages the Secretary to continue this program at the same level as the current fiscal year. Accordingly, I will be pleased to work with the gentlewoman to see that USDA continues a program they initiated administratively.

Mrs. EMERSON. I thank the gentleman.

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

Mrs. EMERSON. I yield to the gentleman from Massachusetts.

Mr. MCGOVERN. First of all, I want to thank the gentlewoman from Missouri for yielding and for her incredible leadership on this issue; and I want to thank the gentleman from Texas for his work on this issue and for the strong language included in the fiscal year 2002 agriculture appropriations report. I appreciate the gentleman's words and his dedication to the continuation of this important program. I look forward to working with him and others on this committee to try to persuade Secretary Veneman to make sure that she does continue this program at the current level.

Mr. Chairman, I include for the RECORD a letter of support for this program co-signed by former Senators Bob Dole and George McGovern.

WASHINGTON, DC,
June 12, 2001.

Hon. C.W. YOUNG,
Chairman, House Appropriations Committee, Washington, DC.

DEAR MR. CHAIRMAN: We would like to encourage you to ensure that funding continues for fiscal year 2002 for the President's Global Food for Education Initiative.

It would be tragic to initiate school feeding programs that benefit 9 million children, only to have those programs abruptly terminated.

We hope that you will support continuing funding for this program in fiscal year 2002 at the same levels as fiscal year 2001 when you consider the FY02 Agriculture Appropriations Bill in Committee this week.

Sincerely,

GEORGE MCGOVERN.
BOB DOLE.

Ms. KAPTUR. Mr. Chairman, will the gentlewoman yield?

Mrs. EMERSON. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I wanted to thank the gentlewoman from Missouri for her tremendous leadership on this issue and also the gentleman from Massachusetts, Mr. MCGOVERN. The two of them have been vigilant all through our efforts in subcommittee and full committee. I want to thank the gentleman from Texas, Mr. BONILLA, for trying to do as much as he could do. I would hope that we might even consider doing a joint letter to the Secretary as we move toward conference, if that is possible, in order that this program be given the serious attention that it demands at the Department of Agriculture. I want to thank all my colleagues for their tremendous efforts.

Also, I understand Senator Dole has gone through a bit of a procedure at the Cleveland Clinic recently. If he is watching this, I hope our remarks make him feel better. I also want to thank Senator MCGOVERN who has been such a stalwart supporter and innovator, a genius really on this program. We thank him for traveling up here recently to join us in a press conference in front of the Capitol. We hope in their stead here today that we do what is necessary to continue this program.

Mrs. EMERSON. I thank the gentlewoman from Ohio. The gentleman from Massachusetts and I thank the gentleman from Texas for his clarification on this issue.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to make a few observations about the conversation that we have just heard with respect to this proposal. I think the key words that Members ought to keep in mind were the words of the subcommittee chairman. When he was asked whether or not he did expect the Department to, in fact, continue this program, he correctly pointed out that it is always difficult to predict what any agency, including USDA, will do. That is precisely why, in my view, the committee should have adopted the amendment that we tried to have attached in full committee and why this House should have voted on it today.

□ 1515

Here is the situation that we face on this issue. We have had, for the past year, a pilot program going on which in essence takes the value of surplus food in this country and uses it to provide nutrition for young children abroad.

We have been asked by former Senator George McGovern and former Senator Bob Dole, who each on occasion was honored with the nomination of his party to the Presidency of the United States, we have been asked by both of them to continue the program and to make it a long-term commitment. That is something we ought to do.

I would submit that no one in the history of the Congress knows more about child nutrition than George McGovern and Bob Dole. They devoted a good deal of their life to seeing to it that children in this country were adequately nourished, and they are trying to also do something to recognize that we have responsibilities to people around the world who are not as fortunate as we are.

The problem we have is that when the gentlewoman from Ohio (Ms. KAPTUR) and others sought to offer the amendment, we were told if we offer the amendment and if we do that in this bill, then this bill will be scored and that will hurt us vis-a-vis the Budget Act.

I would simply say I think this is a sad example of how we have been tied up by some of the ludicrous accounting rules that get in the way of our achieving needed policy goals.

We are stuck in a battle of accountants and the lawyerly interpretation of what accountants tell us and, as a result, we are prevented from doing something which we obviously ought to do.

We have one problem. The agency has not decided to proceed. This Congress had a choice. It could tell the agency to get off the dime and proceed or it could pass the buck. For bookkeeping reasons, this Congress has decided to pass the buck. I think that is unfortunate. It seems to me that if the Congress had indicated today, through an amendment on this legislation, that we were directing them to proceed, the agency would have proceeded. We would then have not had the accounting problem and we could have, in fact, delivered on this program.

We have a simple choice. We have surplus commodities in this country. The question is, will the taxpayers be asked to pay money in order to store them or will they be asked to pay money in order to ship them so they can be used to provide nutrition for young children abroad who need them?

That is a win-win proposition, both for those kids and our farmers. It ought to also help our consciences as well, and I think it is indeed unfortunate that we have been prevented from offering the amendment today.

Ms. KAPTUR. Mr. Chairman, if the gentleman will yield, I reserve the right, as we move toward conference, to reinject this issue into the debate as we further perfect this bill.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

The Clerk will read.

The Clerk read as follows:

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $7,704,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $25,000 is for employment under 5 U.S.C. 3109, $12,869,000.

Ms. LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to enter into a colloquy with the chairman of the committee. I had intended to offer an amendment today to provide funding to make it easier for students to purchase organic and whole foods in the school breakfast and lunch programs, but I will not offer my amendment today. I want to thank the gentleman from Texas (Mr. BONILLA), and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR) for their support of my intention to assist schools in purchasing healthy foods for their school breakfast and lunch programs.

This would include organic, locally grown and fresh produce. At a time when our children's health is threatened by such conditions as obesity and type II diabetes, it is more important than ever to ensure that they have healthy options when they eat at school.

Currently, our tax dollars buy a high fat, high caffeine, fast food diet, which is turning into an extremely expensive public health problem. According to the Centers for Disease Control and Prevention, youth nutrition and obesity are an epidemic in the United States. The Healthy Farms and Healthy Kids Report states that the awful irony is that our multibillion dollar investment is yielding a multibillion dollar public health crisis in school-aged children while at the same time 85 percent of family farmers who are perched precariously on the edge of urban sprawl are threatened with extinction. In many school districts in my State of California and around the Nation, urban, rural, and suburban, it is a real challenge to serve fresh, ethnically diverse meals prepared on-site from whole ingredients obtained by local farms.

With the commitment from the schools and the community, things can be better. In my district, for example, in Berkeley, California, they are facilitating a district-wide food systems-based curriculum supporting garden classrooms and cooking programs in every school.

In Berkeley, local funding has allowed the schools to have a garden in every school, and they are opening fresh salad bars with organic and other fresh foods. So this will help our schools and our local farmers and, of course, our students. With large purchasers like schools, we believe we will demonstrate that we can bring more healthy foods into our schools while lowering the costs but still supporting our farmers. So I would just like to ask the gentleman from Texas (Mr. BONILLA) for his help really in the future to secure funds to make it easier to get healthy foods from our farms to our children and to our schools, of course. I look forward to working with him and our ranking member, the gentlewoman from Ohio (Ms. KAPTUR), to ensure that this provision could possibly be contained in the final version of the fiscal year 2002 Agricultural Appropriations Act.

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

Ms. LEE. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I would be happy to work with the gentlewoman from California (Ms. LEE) and the folks at USDA to provide some positive direction in this area. There is not a parent out there that is not concerned about good nutrition for children so I thank the gentlewoman for bringing this up and would look forward to again trying to direct USDA, somehow working with the gentlewoman on this issue of organic foods.

Ms. KAPTUR. Mr. Chairman, will the gentlewoman yield?

Ms. LEE. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I just wanted to say to the gentlewoman from California (Ms. LEE) that I fully support her efforts. I think she has raised an exceedingly important issue for our country. Without question, the nutrition of our children will yield the health of the future generation. The high use of sugar and high fats in the diets of our youth are creating an untenable, extremely unhealthy situation in this country that even the Surgeon General has recognized.

One of the hardest challenges we face within the U.S. Department of Agriculture is to get the nutrition part of the agency, which has over half of its budget, to talk to the production side, which is the part the gentlewoman is talking about. That is producers, organic producers, small farmers, must be linked to our local school districts. This has been a tough job.

I really support the gentlewoman on her efforts. Her goals of helping our children, I think, are commendable and also getting the Department of Agriculture to see its responsibilities toward our youth by working with farmers who can provide that fresh product in fruits and vegetables, with ethnic and racial sensitivity at the most local of levels, which is where we all live.

So I look forward to working with the gentlewoman as we move the bill in the other body and hopefully we can strengthen this measure as we move forward. I thank the gentlewoman so very much for bringing up this very important issue today.

Ms. LEE. Mr. Chairman, I want to thank the chairman and our ranking member for their colloquy and for their assistance and look forward to working with them. I come from an urban community. I look forward to working with our rural and suburban and urban legislators on this.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $7,041,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $10,325,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service and Rural Development mission areas for information technology, systems, and services, $59,369,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915–16 and 40 U.S.C. 1421–28: *Provided*, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C.

2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $5,384,000: *Provided,* That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded by this Act, $652,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for this Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings, $187,647,000, to remain available until expended: *Provided*, That in the event an agency within the Department should require modification of space needs, the Secretary of Agriculture may transfer a share of an agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to an agency's appropriation to cover the costs of new or replacement space for such agency, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account.

HAZARDOUS MATERIALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. 6601 et seq., $15,665,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $37,398,000, to provide for necessary expenses for management support services to offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $2,993,000, to remain available until expended.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,718,000: *Provided*, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: *Provided further,* That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $8,975,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, $71,429,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, including not to exceed $50,000 for employment under 5 U.S.C. 3109; and including not to exceed $125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $32,937,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $578,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $67,620,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture, as authorized by 7 U.S.C. 1621–1627, Public Law 105–113, and other laws, $114,546,000, of which up to $25,456,000 shall be available until expended for the Census of Agriculture: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, $971,365,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed $375,000, except for headhouses or greenhouses which shall each be limited to $1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed $750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $375,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center, including an easement to the University of Maryland to construct the Transgenic Animal Facility which upon completion shall be accepted by the Secretary as a gift: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

In fiscal year 2002, the agency is authorized to charge fees, commensurate with the fair market value, for any permit, easement, lease, or other special use authorization for

the occupancy or use of land and facilities (including land and facilities at the Beltsville Agricultural Research Center) issued by the agency, as authorized by law, and such fees shall be credited to this account, and shall remain available until expended for authorized purposes.

AMENDMENT NO. 24 OFFERED BY MR. TIERNEY

Mr. TIERNEY. Mr. Chairman, I offer amendment No. 24.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mr. TIERNEY:

In title I, under the heading ''AGRICULTURAL RESEARCH SERVICE-SALARIES AND EXPENSES'', insert at the end the following:

SEC. ___. REPORT REGARDING GENETICALLY ENGINEERED FOODS.

(a) IN GENERAL.—Not later than one year after funds are made available to carry out this section, the Secretary of Agriculture, acting through the National Academy of Sciences, shall complete and transmit to Congress a report that includes recommendations for the following:

(1) DATA AND TESTS.—The type of data and tests that are needed to sufficiently assess and evaluate human health risks from the consumption of genetically engineered foods.

(2) MONITORING SYSTEM.—The type of Federal monitoring system that should be created to assess any future human health consequences from long-term consumption of genetically engineered foods.

(3) REGULATIONS.—A Federal regulatory structure to approve genetically engineered foods that are safe for human consumption.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture $500,000 to carry out this section.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. The point of order is reserved.

Mr. TIERNEY. Mr. Chairman, there is probably no more important responsibility for a government than to protect the well-being of its citizens. For this reason, it is essential that we properly assess the best way to ensure the health safety of genetically engineered foods.

This amendment presented at the desk seeks a National Academy of Sciences study to examine three important health-related aspects of genetically engineered foods. One, whether or not the tests being performed on genetically engineered foods really ensure their health safety and whether or not they are adequate and relevant; two, what type of monitoring system is needed to assess future health consequences from genetically engineered foods; and, lastly, what type of regulatory structure should be in place to approve genetically engineered foods for humans to eat.

In the year 2000, more than 100 million acres of land around the world were planted with genetically engineered crops. This is 25 times as much as was planted just 4 years before. In fact, genetically engineered food crops planted and marketed by United States farmers include 45 kinds of corn, canola, tomatoes, potatoes, soybeans, and sunflowers.

Today, genetically engineered ingredients are found in virtually all of our foods that are sold on supermarket shelves; and that includes baby foods, potato chips, soda, and vegetables.

Despite the growing presence of genetically engineered foods and despite industry assertions that the foods are safe to eat, the public remains unconvinced. The discovery last year of genetically engineered Starlink corn that was not approved for humans to eat in taco shells was a wake-up call. Now that the cat is out of the bag, Starlink's manufacturers want the Environmental Protection Agency to declare Starlink safe for human consumption.

Mr. Chairman, that is no way to protect our health. As the Centers for Disease Control noted earlier this month, we need to properly evaluate genetically engineered foods before they get into the food supply. In my home State of Massachusetts, the State legislature is considering legislation that would impose a 5-year moratorium on the growing of genetically engineered foods. Similar legislation is pending in New York. In fact, according to the Grocery Manufacturers of America, as of March this year there were eight bills in six States that would ban or put a moratorium on the planting of genetically engineered crops.

We cannot afford to bury our heads in the sand and let the public's concerns continue to grow. We need to develop a standard of tests that can be applied to all genetically engineered food to ensure that it is safe for our children and ourselves to eat.

□ 1530

The Food and Drug Administration does not conduct its own testing of genetically engineered products. Instead, the Food and Drug Administration provides guidelines and then relies upon the companies who produce genetically engineered products to test their safety. Companies voluntarily share the results of the tests on genetically engineered products with the Food and Drug Administration.

Under new rules proposed on January 17 by the last administration, companies in the future will have to give 120 days' notice to the Food and Drug Administration before producing new genetically engineered products on the market. But even with these new rules, it remains the responsibility of the companies that create the market and market these products to test for their safety. We need to be sure that these companies are doing the right tests in the right way.

In addition to ensuring that testing methods are adequate, we need to ensure that our regulatory system is also sufficient to protect our health. The National Academy of Sciences has said, ''A solid regulatory system and scientific base are important for acceptance and safe adoption of agricultural biotechnology, as well as for protecting the environment and public health.''

Our current regulatory system, in which the Food and Drug Administration, the Environmental Protection Agency, and the United States Department of Agriculture share jurisdiction over genetically engineered food, may not be the best way to ensure the health and safety of the foods we eat. We need to be certain that testing, regulation and monitoring of genetically engineered foods over the long term are effective and appropriate in determining the potential health effects of eating genetically engineered foods.

Even the center for Science in the Public Interest, an organization devoted to improving the safety and nutritional quality of our food supply, has said that the National Academy of Sciences study would provide regulators with a scientific road map of tests to ensure the safety of genetically engineered foods so the consumers would feel secure when they consume them and farmers would be confident that they have a market for their products.

I think that is what we are looking for, Mr. Chairman. We want consumers to feel secure when they eat, and we want farmers to be confident when they market their products. We should heed the words from that study, and we should fund the study proposed in this amendment.

Mr. Chairman, I thank the chairman for his attention.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) insist upon his point of order?

Mr. BONILLA. I continue to reserve my point of order, Mr. Chairman.

The CHAIRMAN. The gentleman continues to insist on his point of order.

Mr. KUCINICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Tierney amendment. I think the gentleman from Massachusetts raises an excellent point about the need for further study. The truth is that in 1999, over 100 million acres of genetically engineered crops were planted in this country, and the consumption of genetically engineered crops is happening. Yet we really do not have much information about the effects; we really do not know much about how this might have some implications for public health. That is why many States are starting to look at this quite critically, and the issues that are raised here certainly merit more study.

I think the gentleman from Massachusetts (Mr. TIERNEY) should be congratulated for raising this issue and for asking for a more thorough review of this. I can say that I think most people

in this country would support such a call. People are concerned about the food they eat, and they are certainly concerned about any new technology which may, in one way or another, change the functional characteristics of the food, as well as the properties of the food and the way in which the food interacts in the human medium.

So I want to thank the gentleman from Massachusetts (Mr. TIERNEY) for his work.

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

Mr. KUCINICH. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, I would hope that the chairman would just know, this is the second year we have presented this motion; and I think it is a pretty balanced motion.

We are seeking here to both give consumers confidence, that the gentleman from Ohio points out very clearly is a very big concern for people; but we also are trying to make sure that farmers know that they can go to the market with confidence. It is going to do us no good in terms of the economics of our society to have a bunch of farmers that are creating a product in which the consumers have no confidence, so there is no market there.

This particular amendment was a hope to strike the point where we get the National Academy of Science to determine for us what is the best testing regime, what is the best way to monitor this as it goes through, and what is the best way to make sure that we have a regulatory structure to give the confidence at both of those levels.

Mr. KUCINICH. Mr. Chairman, reclaiming my time, the gentleman is correct on that. As a matter of fact, American farmers are quite concerned about the impact of genetically engineered products on their markets, because if their markets begin to dry up, as they have in some countries, then American farmers are not able to sell what we know is the best agriculture in the world, here from America. But if the products are genetically engineered, if there has not been much study and there is concern about quality, safety and other things, then our farmers can endure economic loss.

So I want to again thank the gentleman from Massachusetts (Mr. TIERNEY) for raising this issue, and I hope that the gentleman would respectfully consider his amendment as being in order.

The CHAIRMAN. Does the gentleman from Texas (Mr. BONILLA) still insist on his point of order?

Mr. BONILLA. Mr. Chairman, I continue to reserve my point of order.

The CHAIRMAN. The gentleman continues to reserve his point of order.

Mr. SMITH of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I commend the gentlemen for their interest in providing wholesome food. It is important. I would like to point out, however, that regarding the Starlink corn question, it has now been certified that there has been no ill effects to humans. That is good news.

I would like to also point out that, because we have been cross-breeding for 1,000 years, every food item that we buy in a store, except a couple varieties of fish, have been genetically modified. This has happened simply because farmers have been looking for ways to improve the quality and cost of food.

I think it is very important that we continue our scientific effort with this new technology of genetic modification. We must also consider the importance of its tremendous potential in developing better food products and more healthy products. We can develop food products that have vaccines. Also, especially in the developing countries of this world, we now have the potential of developing the kind of plants and seeds that can grow in those arid soils or those other types of climatic conditions where they could not grow food before. So we need to proceed in our scientific research.

Just a point before I yield for a comment. We have the best regulatory system in the world in terms of our oversight of genetically engineered products. Between the United States Department of Agriculture, the Food and Drug Administration and the Environmental Protection Agency, we now have the ability to review, regulate and test these products that are coming to market to assure safety.

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

Mr. SMITH of Michigan. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. I might respectfully just disagree with the gentleman on the last point, as I think the National Academy of Science does, when they indicated that they think this idea of having three different agencies with overlapping and different responsibilities would be better served to look at what other kind of regulatory structure we could put in place that would give us more confidence.

Also I want to draw a point on the study the gentleman talked about on Starlink. One, I think we want that kind of information before the problem arises, and that is partly why I filed this bill; and, secondly, there is still some controversy swirling around the study the gentleman talked about and the results of it.

I suspect from the gentleman's comments and the importance he puts on genetically engineered foods that he favors my bill, which would be a confidence building measure, if we set up the right kinds of test that people could have confidence in, if we set up the right kind of monitoring system that people would know would be something we could rely on, and if we had the right kind of regulatory structure, it would benefit people that take the gentleman's position, as well as people that might be skeptical or more on that.

The idea is to follow the advice of the National Academy and do just that. Let them give us the advice through this study that I propose, to tell us what would be the best testing regime, how would you monitor it, and how would you regulate it.

Mr. SMITH of Michigan. Mr. Chairman, reclaiming my time, I think it is important, and I hope everyone agrees, that we have to depend on scientific information and testing, and not emotions, to be the basis of the decisions we make.

Mr. TIERNEY. Mr. Chairman, at this point in time I understand the gentleman's objections on technical matters on this, and I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $78,862,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $507,452,000, as follows: to carry out the provisions of the Hatch Act (7 U.S.C. 361a–i), $180,148,000; for grants for cooperative forestry research (16 U.S.C. 582a–a7), $21,884,000; for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222), $32,604,000, of which $998,000 shall be made available to West Virginia State College in Institute, West Virginia; for special grants for agricultural research (7 U.S.C. 450i(c)), $82,409,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), $15,721,000; for competitive research grants (7 U.S.C. 450i(b)), $105,767,000; for the support of animal health and disease programs (7 U.S.C. 3195), $5,098,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), $950,000; for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318), $639,000, to remain available until expended; for the 1994 research program (7 U.S.C. 301 note), $998,000, to remain available until expended; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), $2,993,000, to remain available until expended

(7 U.S.C. 2209b); for higher education challenge grants (7 U.S.C. 3152(b)(1)), $4,340,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), $998,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), $3,492,000; for a program of noncompetitive grants, to be awarded on an equal basis, to Alaska Native-serving and Native Hawaiian-serving Institutions to carry out higher education programs (7 U.S.C. 3242), $2,993,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(h)), $1,000,000; for aquaculture grants (7 U.S.C. 3322), $3,991,000; for sustainable agriculture research and education (7 U.S.C. 5811), $12,000,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, $9,479,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382, $1,549,000; and for necessary expenses of Research and Education Activities, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109, $18,399,000.

AMENDMENT NO. 22 OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. SMITH of Michigan:

In title I under the heading ''COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE''–''RESEARCH AND EDUCATION ACTIVITIES'' insert after the dollar amount relating to ''competitive research grants (7 U.S.C. 450i(b))'' the following: '', including grants for authorized competitive research programs regarding enhancement of the nitrogen-fixing ability and efficiency of plants''.

Mr. SMITH of Michigan. Mr. Chairman, briefly, what this amendment does is to include research to increase the efficiency of nitrogen fixation from plants.

We have a situation where the nitrogen fertilizer of this country is made out of natural gas. It is estimated that 3 to 6 percent of the natural gas produced in the United States is used to produce nitrogen. Farmers use that nitrogen fertilizer and therefore natural gas. If plants could do a better job of fixing ''N'' in the soil, we would save energy and reduce the cost to farmers.

This simply says let us include in our research effort research into the fixation of nitrogen. We now have plants that can put nitrogen back into the soil. We have started on this research. We need to move ahead. It is part of the whole renewable energy effort that we need to consider.

I thank the chairman and ranking member for supporting the amendment.

Mr. Chairman, I have an amendment today that would address the challenge of increased farm input costs due to continued high energy prices. Specifically, the amendment would direct the Cooperative State Research, Education, and Extension Service (CSREES) Competitive Grants Program, better known as the National Research Initiative, to include grants for research into improving nitrogen-fixation ability of crop plants.

As we are aware, higher energy costs over the last two crop years have further stressed farmers facing an extended period of low commodity prices. From 1999 to 2000, U.S. producers incurred an additional $2.4 billion in fuel costs. In the 2001 crop year, energy costs are expected to increase an additional $1.5 billion for farmers. As a result, agricultural bottom lines continue to suffer, and many farmers have gone out of business, despite increasing government support.

While we work to accomplish the larger goals set forth in the President's comprehensive energy plan, I think we should also be sure that no stone is left uncovered with respect to finding new ways to improve our energy usage and consumption. One area where I believe there is great potential for improvements is the reduction of fertilizer input costs on farms through greater nitrogen fixation ability.

In the United States, nitrogen fertilizer production and use requires 3 to 6 percent of the country's natural gas production. Natural gas prices and nitrogen fertilizer prices are closely related, with over 70 percent of the cost of N fertilizer attributable to natural gas. The tripling of natural gas prices last winter highlights this relationship, as nitrogen fertilizer costs skyrocketed over 350 percent. This huge increase obviously left farmers scrambling to modify planting decisions and find other ways to cut fertilizer input costs.

One way that we can do this is by developing plants that put nitrogen in the soil. For example, in a typical soybean-corn rotation—if we can develop new varieties of soybeans that fix greater amounts of nitrogen, more residual nitrogen would remain for the following corn crop, lessening the amount of nitrogen fertilizer that would need to be purchased by the producer.

Recent research indicates that significant potential for improvements exist in this area, but currently, a very limited amount of research is being done on these issues. My amendment would ensure that USDA's National Research Initiative Competitive Research Grants support research into enhancing the nitrogen fixing ability and efficiency of plants.

I believe that making this type of agricultural research a priority will pay great and lasting dividends to farmers facing continued challenges of high energy input costs, and I urge the members to support my amendment.

Note: Currently, USDA–ARS is spending $3.05 million in FY '01 to fund N-fixing projects. USDA–CSREES/NRI is also funding N-fixing projects, but have not reported back the total amount being spent.

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

Mr. SMITH of Michigan. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, we support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Smith).

The amendment was agreed to.

Mr. HANSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I come to the floor today on behalf of all the farmers and ranchers in Utah and other western States who are dealing with the devastating outbreaks of Mormon Crickets and grasshoppers. This outbreak, now under declaration of emergency by the Governor of Utah, is considered to be the worst in over 60 years and is spreading over 1.5 million acres.

These insects, which breed undisturbed and untreated on the vast acres of BLM and Forest Service land and then spread to neighboring State and private land, are devouring the crops and rangeland to the tune of what is expected to be at least $25 million worth of damage.

However, this is not all. In Oak City, Utah, for example, the mayor informs me that the crickets have now inundated the community water system at the sealed collection boxes and tanks. They are now moving into towns, where people are attempting to burn their fruit trees to keep them away from their homes, and children are kept indoors.

Line-item funding has been eliminated, and formerly available funds from previous years have all been expended in battling these insects. The plight of these lands has become such a critical concern, that I have asked our Subcommittee on Public Lands to hold oversight hearings on this issue next month. Timely and adequate funding has been a continual issue for us.

While I understand there are not any line-item funds for Mormon Cricket and grasshopper treatment in this bill as it stands today, I understand the chairman is aware of the problem we are facing and has committed to ensure there is sufficient APHIS funds for the 2002 fiscal year specific to Mormon Cricket and grasshopper treatment, as well as working with us to ensure the Secretary addresses our emergency problems with contingency funds.

I thank the chairman and look forward to working with him and obtaining emergency funds.

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

Mr. HANSEN. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I thank my friend for yielding. I appreciate the hard work that the gentleman has undertaken on this issue. I know it is a very serious problem.

The committee and this chairman are aware of the emergency conditions that exist in Utah and throughout the Great Basin region caused by the Mormon Crickets. The gentleman from Utah has my commitment to ensure that proper funding for this problem is obtained in a timely manner this year and that specific funding for addressing the Mormon Cricket and grasshopper

problem is identified to meet future needs in the FY 2002 bill.

Mr. HANSEN. Mr. Chairman, reclaiming my time, I thank the chairman and appreciate his help on this critical matter and look forward to addressing this issue in conference and with the Secretary's help.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of ensuring that all warm-blooded animals used in research receive the protection for which the Animal Welfare Act entitles them, and therefore oppose the language that has been included in the bill before us which will continue to deny those protections to those species that constitute the majority of the animals used in research.

In 1970, the Congress specifically amended the Animal Welfare Act to provide for the protections of all warm-blooded animals used in experiments. Since then, however, the U.S. Department of Agriculture has unfairly and illegally denied those modest safeguards to a majority of the research animals, over 20 million birds, rats, and mice used each year.

When Congress amended the law, we certainly did not intend to exclude 95 percent of the animals used in research. This is confirmed by our esteemed former colleague from the other body, Senator Bob Dole, who, along with my great friend, the late Congressman George Brown, further improved the treatment of lab animals in 1985.

□ 1545

I wish to enter into the RECORD the letter from Senator Dole on this subject.

To correct this 30-year-old wrong, USDA committed the beginning of the rulemaking process to extend the Animal Welfare Act regulations to these animals. I am disappointed that the Agriculture Appropriations Subcommittee chose to add language that prohibits USDA from going forward with this rulemaking which is long overdue. The scientific community must be held accountable to the public for its treatment of animals. The American public expects animal research to be conducted as humanely as possible. We in Congress cannot assure them that if we not only allow, but also encourage, USDA to exclude the majority of research animals from this law's protection.

Mr. Chairman, I urge that this language be stricken in the conference committee between the House and the Senate.

The letter referred to previously follows:

WASHINGTON, DC,
March 19, 2001.

JOHN MCARDLE,
Director, Alternatives Research and Development Foundation, Eden Prairie, MN.

DEAR DR. MCARDLE: Thank you for your letter of March 1st regarding the current status of laboratory animals under the Animal Welfare Act (AWA).

I support the use of animals in research but firmly believe that there is a responsibility incumbent upon researchers to provide basic protections to the animals they use. It is obvious that good animal care is essential to ensuring good quality research. Through good animal treatment and minimizing painful tests, biomedical research gains in both accuracy and humanity.

As someone deeply involved with the process of revising and expanding the provisions of the AWA, I assure you that the AWA was meant to include birds, mice, and rats. When Congress stated that the AWA applied to ''all warm-blooded animals,'' we certainly did not intend to exclude 95 percent of the animals used in biomedical research laboratories. Although the National Institutes of Health and the Association for Assessment and Accreditation of Laboratory Animal Care International provide oversight for some of the birds, mice, and rats used for experimentation, many research institutions fall outside their purview. With AWA regulations soon extended to these animals, I believe USDA, with its substantial experience in enforcement, is best suited to ensuring humane care for all laboratory animals. Moreover, neither NIH's policy nor voluntary accreditation includes legal consequences for failure to perform. The Animal Welfare Act does. That is the heart of the law.

I am aware of efforts by opponents of animal welfare to prevent coverage of birds, mice, and rats as detrimental to research. This notion is preposterous. A similar strategy was employed by opponents of my 1985 amendments to the Act. I am happy to observe that none of their predications about the dire consequences for research ever materialized.

Indeed, those amendments have facilitated significant improvements in laboratory animal care and use, which in turn have benefited research. In fact, I understand that those members of the research community best informed about laboratory animals support the inclusion of birds, mice, and rats. From their work on the front lines, they recognize, as you and I do, that uniform protections not only are humane, but also ensure consistent experimental results and level the playing field in vital scientific research. Those who oppose USDA's efforts to fulfill its court settlement with your organization, I believe, are overlooking the long-term benefits to crafting better science.

We owe much to laboratory animals—that were true in 1985 and is truer today. I would hope that the Bush Administration and Members of the present Congress, some of whom stood with me in 1985 in advancing my amendments, will recognize that all animals used in experimentation deserve the benefit of the modest requirements of the Animal Welfare Act. I would urge them to allow USDA to achieve this end by pursuing a full and fair rulemaking as provided in the settlement agreement.

I wish you the best of luck not only in defending the Animal Welfare Act, but also in your ongoing efforts to advance humane methods of biomedical research.

Let me add that I am writing to you as a volunteer. I am not being paid by any persons or group for stating my views.

Sincerely,

BOB DOLE.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products: *Provided*, That this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103–382 (7 U.S.C. 301 note), $7,100,000.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, $436,029,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $275,940,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $3,273,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,566,000; payments for the pest management program under section 3(d) of the Act, $10,759,000; payments for the farm safety program under section 3(d) of the Act, $5,800,000; payments to upgrade research, extension, and teaching facilities at the 1890 land-grant colleges, including Tuskegee University, as authorized by section 1447 of Public Law 95–113 (7 U.S.C. 3222b), $12,173,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $906,000; payments for youth-at-risk programs under section 3(d) of the Act, $8,481,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, $499,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $3,185,000; payments for Indian reservation agents under section 3(d) of the Act, $1,996,000; payments for sustainable agriculture programs under section 3(d) of the Act, $5,000,000; payments for rural health and safety education as authorized by section 2390 of Public Law 101–624 (7 U.S.C. 2661 note, 2662), $2,622,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326 and 328) and Tuskegee University, $28,181,000, of which $998,000 shall be made available to West Virginia State College in Institute, West Virginia; and for Federal administration and coordination including administration of the Smith-Lever Act, and the Act of September 29, 1977 (7 U.S.C. 341–349), and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301 note), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $18,648,000: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, shall not be paid to any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American

Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension competitive grants programs, including necessary administrative expenses, as authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $43,355,000, as follows: payments for the water quality program, $12,971,000; payments for the food safety program, $14,967,000; payments for the national agriculture pesticide impact assessment program, $4,531,000; payments for the Food Quality Protection Act risk mitigation program for major food crop systems, $4,889,000; payments for the crops affected by Food Quality Protection Act implementation, $1,497,000; payments for the methyl bromide transition program, $2,500,000; and payments for the organic transition program, $2,000,000.

OFFICE OF THE UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration; $660,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947 (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Acts of March 2, 1931 (46 Stat. 1468) and December 22, 1987 (101 Stat. 1329–1331) (7 U.S.C. 426–426c); and to protect the environment, as authorized by law, $587,386,000, of which $4,096,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, and section 102 of the Act of September 21, 1944, and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2002 the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

Of the total amount available under this heading in fiscal year 2002, $84,813,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $7,189,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $90,000 for employment under 5 U.S.C. 3109, $71,774,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $60,596,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $13,995,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,347,000.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $33,117,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

INSPECTION AND WEIGHING SERVICES

Not to exceed $42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $481,000.

Mr. BONILLA (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 25, line 1, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $720,652,000, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102–237: *Provided*, That this appropriation shall be available for

field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

AMENDMENT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. DELAURO:

In title I, in the item relating to ''FOOD SAFETY AND INSPECTION SERVICE'', insert at the end the following:

In addition, for the Food Safety and Inspection Service to improve food safety and reduce the incidence of foodborne illnesses, $50,000,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

In title VI, in the item relating to ''FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES'', insert at the end the following:

In addition, for the Food and Drug Administration to improve food safety and reduce the incidence of foodborne illnesses, $163,000,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

Ms. DELAURO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN. A point of order is reserved.

Mr. BONIOR. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 30 minutes and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The time will be equally divided between the proponent of the amendment, the gentlewoman from Connecticut (Ms. DELAURO), and a Member opposed.

Mr. BONILLA. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN. The gentlewoman from Connecticut (Ms. DELAURO) is recognized for 15 minutes.

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

Mr. Chairman, my amendment provides emergency funds to address the food safety crisis that faces our Nation today. Today more Americans are getting sick from the food that they eat. Outbreaks of food sickness are expected to go up by as much as 15 percent over the next 10 years. The outbreaks are reported across the spectrum: fish, eggs, beef and lettuce, to name a few. The statistics are staggering. Five thousand Americans die every year from food-borne illness, and 76 million get ill and 325 are hospitalized. Medical expenses and lost productivity cost us every year $5.6 billion and $9.4 billion respectively.

Two days ago the Excel Corporation recalled 190,000 pounds of ground beef and pork because of possible contamination by deadly E. coli. Sara Lee pled guilty to selling tainted meat linked to a nationwide outbreak of listeriosis in 1998, and 15 people were killed.

Grocery stores are afraid that their food is unsafe. Slaughterhouses are killing cattle before the animals are unconscious because there are not enough inspectors to ensure that the law is enforced.

George Grob, Deputy Director and Inspector General of Health and Human Services states that, and I quote, ''Any reasonable person would worry about it. If the inspection process worked really well, there would be fewer recalls.''

To address the problem I asked the committee to allow an amendment that would provide a total of $213 million in emergency funds, $90 million for more inspections of imported foods, $73 million for additional inspections of domestic food products, and $50 million for the Food Safety Inspection Service to ensure that it has the resources that it needs to implement food safety procedures and regulations.

The Food and Drug Administration inspects all food except meat, poultry and eggs. This food, which includes fruit juices, vegetables, cheeses, seafood, is the source of 85 percent of food poisoning in this country. In the United States alone, there are 30,000 companies that produce these food items, and last year recalls of FDA-regulated products rose to 315, the most since the 1980s and 36 percent above average.

Mr. Chairman, FDA inspects less than 1 percent of imported food, and that market has expanded from 2.7 million items to 4.1 million items in just 3 years. In the domestic market, the FDA does not inspect all high-risk firms more than once a year; other firms are visited only once in 7 years. The FDA employs 400 people to inspect domestic food and recall. There are 30,000 food plants to look into and less than 120 people to inspect imported food. According to their own testimony, the FDA says to conduct annual inspections of every domestic food firm, it would need 3,400 employees. To increase its inspection of imported food from 1 percent to 10 percent would require 1,600 employees.

The FDA needs resources in order to begin to meet its goal, and that is what this amendment does, is to begin the process of increasing the number of inspectors in order to look at imported foods and take the 1 percent of the inspections to 10 percent, and it would add 630 inspectors to guarantee that all high-risk firms are inspected twice a year, all other firms every 2 years, and all food warehouses every 3 years.

The last part of the amendment says, let us have $50 million for the Food Safety Inspection Service to allow it to reach its goal of looking at reducing food-borne illnesses that are carried by meat and poultry by 25 percent.

The FSIS has held public hearings to look at how we deal with imported food and procedures, risk management, and emergency outbreaks. We only have to look at our European friends to see what they have gone through with foot and mouth and with mad cow illness to understand that what we need to do is to be able to meet any kind of emergency. We need to move forward on food safety, not backwards. If we continue to not provide the kinds of inspection services that are needed, in fact, we will move backwards and jeopardize the health of this country.

Mr. Chairman, I ask for support of this amendment and to provide emergency assistance for food safety.

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

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

The CHAIRMAN. Does the gentleman insist upon his point of order?

Mr. BONIOR. I continue to reserve the point of order, Mr. Chairman.

Ms. DELAURO. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Question: How many times have we all heard; ''The government is too blasted big. Get the government out of our lives.'' I bet my colleagues have heard it a lot. Yet the first time that we have an outbreak of disease someplace, the first time that people die from contaminated food, all of a sudden people say, ''Where is the government? What are they doing? Why don't they get off their duffs? Why aren't they protecting the public interest?''

Well, there is very good reason for that. It is because we are not providing the resources necessary to provide an

absolutely safe source of food in this country.

The purpose of this amendment is to, over a 3-year period of time, bring us to where the FDA says we should be in protecting the public health of this country.

When we had subcommittee hearings earlier in the year, here is what FDA said in response to questions: ''The inspection coverage of food manufacturers, particularly high-risk manufacturers, has been inadequate over the past several years.'' FDA estimated we would need at least $220 million for an optimum inspection schedule of domestic food facilities under our jurisdiction. This would provide inspection of high-risk firms twice each year, warehouses every 3 years, and all other food firms every 2 years.

Now, people can argue all day long about government priorities, but the fact is that we are here today unable to offer this amendment because the budget limitations under which we are operating prevents us from even getting a vote on the amendment offered by the gentlewoman.

Why are we in this position? Because the majority party and the White House insisted early on to take virtually every dime of the surpluses that we were hoping to have over the next 10 years and pour all of those monies into tax cuts. They put the lion's share of those tax cuts into the pockets of the very wealthiest people in this country.

So this Congress decided it was more important to give the wealthiest 1 percent of people in this country, who, over the last 20 years, have seen an after-tax rise in their income of $414,000 per family, that it was more important to give those people an additional tax cut of $53,000 a year than it is to meet our primary obligations to strengthen Social Security, to strengthen education, to strengthen Medicare, and to do all of these other little things that we need to do if we are going to protect the food supply of this country and the environment in which we all live.

So I simply take the well today, knowing full well that this amendment will not receive a vote because of the rule under which the bill is being considered, to suggest that this again is another example of how we are neglecting our responsibilities of stewardship in order to do the easy political thing and throw all of the money that we were expecting to accumulate in those surpluses to tax cuts for the most prosperous people in this society.

Mr. Chairman, I cannot believe this Congress could not achieve a better balance in priorities. I cannot believe that intelligent people on both sides of the aisle cannot figure out a way to guarantee that we do provide at least the minimum coverage that the Agency itself says we ought to provide in order to protect the health of the American people.

Mr. Chairman, 5,000 Americans are going to die this year because of contaminated food, and millions are going to become sick. I do not believe that we cannot do better.

Mr. BONILLA. Mr. Chairman, I continue to reserve my point of order, and I reserve the balance of my time.

Ms. DELAURO. Mr. Chairman, I yield 5 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentlewoman for yielding to me, and I want to commend her for her terrific efforts in subcommittee and in full committee, and now on the floor, to get appropriate attention to the important question of food safety in our country. It really is staggering to think that 76 million Americans every year have some type of food-borne illness.

□ 1600

As modern a society as we are, we question, why does this happen? Part of the reason for it is because our food system, in many ways, is moving very far away from home.

It used to be that you knew the farmer where your eggs came from. You knew the farmer who grew your strawberries. There was local accountability. You knew where your chickens came from. You knew where your beef for your sausage came from, because the people lived in your community and you went to the stores and the outlets that they operated.

Mr. Chairman, today we live in a very industrialized food system, and industrialized food processing has not necessarily brought with it a safer food system. In fact, last year, 315 Food and Drug Administration regulated food products were recalled, the most recalls in 1 year since the mid-1980s.

It was a 36 percent increase above the average, and part of the reason for that is, even though we have certain scientific methods in place, the way in which our food is processed actually encourages food-borne illness.

For example, in the area of beef, if you go into some of our slaughter houses and meat-packing plants now, which are very, very mechanized, often, an intestine will be pierced and E. coli will be driven into flesh in the animal that is ultimately then cut up and sold on the supermarket shelf.

Mr. Chairman, some of that is not detected by the human eye. Industrial slaughtering is different than when animals were cut by hand and there were not so many animals slaughtered per day and there was closer oversight.

It has never been easy to work in a meat processing facility. At the beginning of the 20th century, books were written about what was going on inside these meat-packing plants, and through the 20th century, we tried to improve the situation.

In poultry, for example, if you look at the USDA inspectors who are on a line, the rate at which birds move by them has become so fast, the human eye cannot necessarily detect the different types of salmonella and pfiesteria and other bacterial microbes that can infect the meat product.

In spite of the fact that we seem to be so modern, some of the very procedures that we have as well as the fact that food is grown and processed very far from home has made the system in some ways extremely vulnerable.

It is surprising to us also that in a country as bountiful as ours that we have increasing amounts of food imports.

Over the last 4 years alone, imported foods sold in the United States have increased by 50 percent, from 2.7 million items in 1997 to 4.1 million last year alone. But of all the foreign imports coming in here, as the gentlewoman from Connecticut (Ms. DELAURO) has accurately described, only 1 percent are inspected.

When most people get sick from food poisoning, they do not report it to the Centers for Disease Control. A lot of times they do not really realize what is wrong with them until a couple of days later. At the local level, there is not an automatic reporting upstream to the CDC. So a lot of the food poisoning goes unreported. The DeLauro amendment would provide additional funds for food inspection.

There is $98 million more for imported food inspection, which we so desperately need at our borders; $73 million for more FDA inspections of domestic food processors. Many processors do not even get inspected once a year; sometimes it takes up to 2 years.

The FDA actually is the agency where 75 percent of the problem is, 75 percent of the outbreaks and problems relate to FDA-inspected facilities. This means inspection is inadequate.

The DeLauro amendment also would provide $50 million for USDA food safety and inspection service to carry out new procedures and regulations for meat and poultry food products. For example, USDA is currently addressing port of entry procedures and the development of contingency plans for emergency breakouts. Remember, we had that problem of strawberries in Michigan causing children to become so ill. To this day, we were never actually able to track back where the problem with those strawberries came from. We knew they were processed in southern California. Their origin was Mexico, but we just could not track it back.

So I think the DeLauro amendment is more than worthy; it is essential. She has my full support on this. I hope she has the attention of the membership. Let us get this DeLauro amendment incorporated in the final bill that we bring back from the other body.

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

Mr. Chairman, this is simply an effort to try to build the infrastructure

of the agencies that we charge with protecting our food, our food supply, which is ultimately about the food, but it is about the safety of every man, women and child in this country. That is all that we are asking about here.

Given the statistics, which are staggering, 5,000 deaths, 73 million people ill, 325,000 people hospitalized, it is unconscionable that we do not recognize this as a crisis and as an emergency.

We cannot allow this to continue. We can do something about it.

PARLIAMENTARY INQUIRY

Mr. BONILLA. Mr. Chairman, I have a parliamentary inquiry. Is the gentlewoman from Connecticut (Ms. DELAURO) withdrawing her amendment?

The CHAIRMAN pro tempore (Mr. WHITFIELD). Is the gentlewoman from Connecticut withdrawing her amendment, or does she continue to want to move forward on her amendment?

Ms. DELAURO. Mr. Chairman, I would like to continue to move forward with my amendment.

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. BONILLA. Mr. Chairman, I make a point of order against the amendment, because it proposes to change existing law and constitutes legislation in an appropriations bill, and, therefore, violates clause 2 of rule XXI. The rule states, in pertinent part, an amendment to a general appropriation bill shall not be in order if changing existing law.

The amendment includes an emergency designation under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, and, as such, constitutes legislation in violation of clause 2 of rule XXI.

I ask for a ruling from the Chair.

The CHAIRMAN pro tempore. Does the gentlewoman from Connecticut want to be heard on the point of order?

Ms. DELAURO. No, Mr. Chairman.

The CHAIRMAN pro tempore. Then the Chair is prepared to rule on the gentleman's point of order.

The Chair finds that this amendment includes an emergency designation under section 251(b)(2)(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, the amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. The amendment is not in order.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The Committee will rise informally.

The SPEAKER pro tempore (Mr. LATHAM) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The Committee resumed its seating.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $611,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $945,993,000: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 shall be available for employment under 5 U.S.C. 3109.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $2,993,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, $100,000, to remain available until expended: *Provided*, That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–12).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $1,128,000,000, of which $1,000,000,000 shall be for guaranteed loans and $128,000,000 shall be for direct loans; operating loans, $2,600,000,000, of which $1,500,000,000 shall be for unsubsidized guaranteed loans, $500,000,000 shall be for subsidized guaranteed loans, and $600,000,000 shall be for direct loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; and for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $100,000,000.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $7,866,000, of which $4,500,000 shall be for guaranteed loans and $3,366,000 shall be for direct loans; operating loans, $174,030,000, of which $52,650,000 shall be for unsubsidized guaranteed loans, $67,800,000 shall be for subsidized guaranteed loans, and $53,580,000 shall be for direct loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $118,000; and for emergency insured loans, $3,363,000 to meet the needs resulting from natural disasters.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $282,769,000, of which $274,769,000 shall be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933), $75,142,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act, such sums as may be necessary, to remain available until expended (7 U.S.C. 2209b).

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 2002, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11).

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 2002, the Commodity Credit Corporation shall not expend more than $5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, 42 U.S.C. 6961.

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $736,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $782,762,000, to remain available until expended (7 U.S.C. 2209b), of which not less than $7,137,000 is for snow survey and water forecasting, and of which not to exceed $30,500,000 is for technical assistance activities in conjunction with the Conservation Reserve Program authorized by subchapter B, chapter 1, title XII of the Food Security Act of 1985, and of which not less than $9,349,000 is for operation and establishment of the plant materials centers, and of which not less than $20,000,000 shall be for the grazing lands conservation initiative: *Provided*, That $8,500,000 of the funds authorized for allotments or transfers under 15 U.S.C. 714i shall be available for Conservation Reserve Program technical assistance: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2).

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001–1009), $11,030,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $110,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001–1005 and 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $105,743,000, to remain available until expended (7 U.S.C. 2209b) (of which up to $10,000,000 may be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701 and 16 U.S.C. 1006a)): *Provided*, That not to exceed $45,514,000 of this appropriation shall be available for technical assistance: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a–f); and the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $48,361,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL CONSERVATION PROGRAM

(RESCISSION OF FUNDS)

Of the funds appropriated for ''Agricultural Conservation Program'' under Public Law 104–37, $45,000,000 is hereby rescinded.

TITLE III

RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $628,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, 1926d, and 1932, except for sections 381E–H, 381N, and 381O of the Consolidated Farm and Rural Development Act, $767,465,000, to remain available until expended, of which $34,503,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $658,994,000 shall be for the rural utilities programs described in sections 381E(d)(2), 306C(a)(2), and 306D of such Act; and of which $73,968,000 shall be for the rural business and cooperative development programs described in sections 381E(d)(3) and 310B(f) of such Act: *Provided*, That of the total amount appropriated in this account, $24,000,000 shall be for loans and grants to benefit Federally Recognized Native American Tribes, including grants for drinking water and waste disposal systems pursuant to section 306C of such Act, of which $4,000,000 shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of the Consolidated Farm and Rural Development Act, and of which $250,000 shall be available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: *Provided further*, That of the amount appropriated for rural community programs, $6,000,000 shall be available for a Rural Community Development Initiative: *Provided further*, That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: *Provided further*, That such funds shall be made available to qualified private and public intermediary organizations proposing to carry out a program of financial and technical assistance: *Provided further*, That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: *Provided further*, That of the amount appropriated for the rural business and cooperative development programs, not to exceed $500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development; and $2,000,000 shall be for grants to Mississippi Delta Region counties: *Provided further*, That of the amount appropriated for rural utilities programs, not to exceed $20,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico borders, including grants pursuant to section 306C of such Act; not to exceed $20,000,000 shall be for water and waste disposal systems for rural and native villages in Alaska pursuant to section 306D of such Act, of which one percent to administer the program and to improve interagency coordination may be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''; not to exceed $16,215,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act; and not to exceed $11,000,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That of the total amount appropriated, not to exceed $37,624,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the

Secretary of Agriculture as Rural Economic Area Partnership Zones; of which $1,163,000 shall be for the rural community programs described in section 381E(d)(1) of such Act, of which $27,431,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, and of which $9,030,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided further*, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the ''Rural Utilities Service, High Energy Costs Grants'' account.

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $134,733,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 may be used for employment under 5 U.S.C. 3109: *Provided further*, That not more than $10,000 may be expended to provide modest nonmonetary awards to non-USDA employees: *Provided further*, That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this account.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $4,202,618,000 for loans to section 502 borrowers, as determined by the Secretary, of which $1,064,650,000 shall be for direct loans, and of which $3,137,968,000 shall be for unsubsidized guaranteed loans; $32,324,000 for section 504 housing repair loans; $114,068,000 for section 515 rental housing; $99,770,000 for section 538 guaranteed multi-family housing loans; $5,090,000 for section 524 site loans; $11,778,000 for credit sales of acquired property, of which up to $1,778,000 may be for multi-family credit sales; and $5,000,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $180,274,000 of which $140,108,000 shall be for direct loans, and of which $40,166,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $10,386,000; section 515 rental housing, $48,274,000; section 538 multi-family housing guaranteed loans, $3,921,000; section 524 site loans, $28,000; multi-family credit sales of acquired property, $750,000; and section 523 self-help housing land development loans, $254,000: *Provided*, That of the total amount appropriated in this paragraph, $11,656,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $422,910,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

AMENDMENT OFFERED BY MRS. CLAYTON

Mrs. CLAYTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. CLAYTON:

In title III, in the item relating to ''Rural Housing Insurance Fund Program Account'' add at the end the following:

Of the amounts made available under this heading in chapter 1 of title II of Public Law 106–246 (114 Stat. 540) for gross obligations for principal amount of direct loans authorized by title V of the Housing Act of 1949 for section 515 rental housing, the Secretary of Agriculture may use up to $5,986,197 for rental assistance agreements described in the item relating to ''Rental Assistance Program'' in such chapter: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Control Act of 1985, as amended.

In making available for occupancy dwelling units in housing that is provided with funds made available under the heading referred to in the preceding paragraph, the Secretary of Agriculture may give preference to prospective tenants who are residing in temporary housing provided by the Federal Emergency Management Agency as a result of an emergency.

Mrs. CLAYTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BONILLA. Mr. Chairman, I reserve a point of order on this amendment.

The CHAIRMAN pro tempore. The gentleman from Texas reserves a point of order.

Mrs. CLAYTON. Mr. Chairman, I ask unanimous consent to offer my amendment at a later time.

The CHAIRMAN pro tempore. Does the gentlewoman want to withdraw her amendment?

Mrs. CLAYTON. This is a housing amendment, and I thought it was appropriate at this point, but if there is a question about appropriateness of the government at this time.

Ms. KAPTUR. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, just so we understand what is occurring here. I just want to make sure that the gentlewoman from North Carolina will have the opportunity to bring up her amendment at a later time, even if it might be out-of-page order, and it may not be able to come up later today, but maybe when we come back from the 4th of July.

Mr. Chairman, we just want to reserve her rights to bring this up and work out whatever needs to be done with the majority.

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Mr. BONILLA. Mr. Chairman, if the gentlewoman will yield, we would have no objection to that, and she would be allowed to do that.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman.

The CHAIRMAN pro tempore (Mr. WHITFIELD). Without objection, the gentlewoman from North Carolina (Mrs. CLAYTON) withdraws her amendment and, without prejudice, will be able to reoffer at an appropriate time.

There was no objection.

Mrs. CLAYTON. At a later time?

The CHAIRMAN pro tempore. At a later point in the reading, the gentlewoman from North Carolina will be able to reoffer her amendment.

Mrs. CLAYTON. Do I need further instruction from the Chair? I just want to make sure, have I reserved my right? Is my amendment protected? All right.

The CHAIRMAN pro tempore. The gentlewoman will be allowed to at a later point in the reading to offer her amendment notwithstanding having passed the appropriate point in the reading.

The Clerk will read.

The Clerk read as follows:

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, $693,504,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount, not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That agreements entered into or renewed during fiscal year 2002 shall be funded for a 5-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $33,925,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That of the total amount appropriated, $1,000,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and

1490m, $38,914,000, to remain available until expended: *Provided,* That of the total amount appropriated, $1,200,000 shall be available through June 30, 2002, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, $31,431,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $38,171,000.

For the cost of direct loans, $16,494,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,724,000 shall be for Federally Recognized Native American Tribes and of which $3,449,000 shall be for Mississippi Delta Region counties (as defined by Public Law 100–460): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of $38,171,000: *Provided further*, That of the total amount appropriated, $2,730,000 shall be available through June 30, 2002, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $3,761,000 shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $14,966,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $3,616,000.

Of the funds derived from interest on the cushion of credit payments in fiscal year 2002, as authorized by section 313 of the Rural Electrification Act of 1936, $3,616,000 shall not be obligated and $3,616,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $7,500,000, of which $2,500,000 shall be available for cooperative agreements for the appropriate technology transfer for rural areas program: *Provided*, That not to exceed $1,497,000 of the total amount appropriated shall be made available to cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers.

RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY GRANTS

For grants in connection with a second round of empowerment zones and enterprise communities $14,967,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities as authorized in the Taxpayer Relief Act of 1997.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans $121,107,000; municipal rate rural electric loans, $794,358,000; loans made pursuant to section 306 of that Act, rural electric, $2,600,000,000; Treasury rate direct electric loans, $500,000,000; and guaranteed electric loans, $100,000,000; 5 percent rural telecommunications loans, $74,827,000; cost of money rural telecommunications loans, $300,000,000; and rural telecommunications loans, $120,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of rural electric loans, $3,689,000, and the cost of telecommunication loans, $2,036,000: *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $36,322,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs. During fiscal year 2002 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $174,615,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935), $2,584,000.

In addition, for administrative expenses, including audits, necessary to carry out the loan programs, $3,107,000 which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

DISTANCE LEARNING AND TELEMEDICINE PROGRAM

For the principle amount of direct distance learning and telemedicine loans, $300,000,000; and for the principle amount of broadband telecommunication loans, contingent upon the enactment of authorizing legislation, $100,000,000.

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., $26,941,000, to remain available until expended, to be available for loans and grants for telemedicine and distance learning services in rural areas: *Provided*, That, contingent upon the enactment of authorizing legislation, $1,996,000 may be available for a loan and grant program to finance broadband transmission and local dial-up Internet service in areas that meet the definition of ''rural area'' used for the Distance Learning and Telemedicine Program authorized by 7 U.S.C. 950aaa: *Provided further*, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $592,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $10,088,746,000, to remain available through September 30, 2003, of which $4,748,038,000 is hereby appropriated and $5,340,708,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That except as specifically provided under this heading, none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That up to $4,507,000 shall be available for independent verification of school food service claims: *Provided further*, That of the funds provided under this heading, $2,000,000 shall be available for new activities to enhance integrity in the National School Lunch Program.

AMENDMENT OFFERED BY MRS. DAVIS OF CALIFORNIA

Mrs. DAVIS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. DAVIS of California:

In title IV under the heading ''CHILD NUTRITION PROGRAMS'', insert before the period at the end the following: ''*Provided further*, That the Secretary of Agriculture may not take into account the availability of a basic allowance for housing for members of the Armed Forces when determining the eligibility of persons for free or reduced-price lunch programs''.

Mr. BONILLA. Mr. Chairman, I reserve a point of order. We have not seen this amendment.

The CHAIRMAN pro tempore. The point of order is reserved.

Mrs. DAVIS of California. Mr. Chairman, I realize this amendment will most likely not be ruled in order, but I offer it to raise awareness to a critical problem.

In an effort to leverage its limited quality-of-life resources, the armed services are privatizing military family housing. I support this effort. In fact, we have some wonderful projects online in San Diego. But as you know, obviously there are unintended consequences of a good program. I would like to point out two in particular.

This is creating a loss of income to school districts, and it is affecting the eligibility for free and reduced school

lunch programs for the children of military families.

Let me give my colleagues some background. When a family lives in a military family housing community, they basically forfeit their basic housing allowance. But when that community housing becomes privatized, this basic allowance for housing is included on the servicemembers' pay statement. That is called an LES. Servicemembers do not actually receive this income, however. It is basically pass-through.

Unfortunately, under the Department of Agriculture rules, this amount is included as income in determining eligibility for free and reduced school lunches.

The Department of Defense adds the allowance to the pay statement to assist them in accounting, but the servicemember is not getting any additional pay for the family, and certainly not for food for their children.

This could happen. Perhaps, on a Sunday, the military housing community is owned and operated by the military. But on Monday, that housing community is operated by a private company, still on the Federal land, but the servicemember has never moved, but has less money really in his pocket if his child does not become eligible for free and reduced lunch. They had that eligibility before.

So families are losing some assistance, children are losing their free lunches, and school districts are losing Federal funds. It is the smaller school districts particularly that are especially affected by this. So we need to take a look at this issue, and I think we need to change the rules. This is no way, I believe, to treat the men and women who sacrifice so much in service to our country. So what my amendment would do would be to prevent the housing allowance from being used when determining eligibility for child nutrition programs.

There is another issue that we are going to face as well. I hope that we can increase the basic housing allowance for all servicemembers regardless of where they live. I know in my community of San Diego, people are paying far greater than they should out of pocket.

As we increase that need and keep pace with rising housing costs, we need to be certain that it is indexed at the end of the day so that there is still more money for the families to feed their children. We do not want to cause them to lose this valuable assistance that they receive, the children receive at school, if it looks as if their incomes have increased when, in fact, we know they really have not.

So I asked the assistance of my colleagues on this issue and the commitment of the chairman to work with me to resolve this issue.

The CHAIRMAN pro tempore. Does the gentleman from Texas (Mr. BONILLA) insist on his point of order?

Mr. BONILLA. Mr. Chairman, I would ask the Chair if the gentlewoman from California (Mrs. DAVIS) is going to withdraw her amendment.

The CHAIRMAN pro tempore. Does the gentlewoman from California intend to withdraw her amendment?

Mrs. DAVIS of California. Mr. Chairman, yes. I hope that we can work together on this, and I certainly will ask to withdraw my amendment.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to say to the gentlewoman from California (Mrs. DAVIS) and to the chairman of the subcommittee that I do believe the gentlewoman has really brought up an issue that we never have considered, never were asked to consider during our regular hearings and so forth.

I think this does involve also the authorizing of the Committee on Education and the Workforce since they have jurisdiction over the school lunch program, the free and reduced lunch program, although we have jurisdiction over the expenditures for that.

Knowing that some of our military personnel are extremely pressed, even some eligible for food stamps when serving the Government of the United States at points around the world, it would seem to me that we should find a way to encourage the Department of Education, the Department of Agriculture to treat our military personnel with the respect that they deserve.

I want to compliment the gentlewoman for bringing this issue to the attention of our subcommittee and pledge my own cooperation with her in resolving this in the weeks and months ahead, and certainly also encourage her to testify before the Committee on Education and the Workforce as well as the authorizing Committee on Agriculture.

We here on the Committee on Appropriations will continue to work with the gentlewoman from California (Mrs. DAVIS) as we move to conference with the other body.

The CHAIRMAN pro tempore. Does the gentlewoman from California (Mrs. DAVIS) intend to withdraw her amendment?

Mrs. DAVIS of California. Yes, Mr. Chairman, I will do that. I know that there are colleagues on the other side of the aisle as well who have confronted this problem in their community, and I appreciate their help and support on this as well.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mr. SCHROCK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take this opportunity to speak on behalf of this amendment that was introduced by the gentlewoman from California (Mrs. DAVIS). At a time when retention in the military is down, we need to find as many ways as possible to support our sailors, soldiers, airmen, marines and their families.

The Department of Agriculture's current policy of counting the basic allowance for housing as part of income is unfair to the young men and women of the military who have dedicated their lives in service to our country.

Many military families, many new military families are finding it difficult just to make ends meet. Many are living just above the poverty level. The long hours, the months away from loved ones and low-paying jobs for spouses is often the norm for these families. When military communities introduced privatized housing to help military bases save on operating costs, it, unfortunately, does not always save money for the servicemembers.

When a member lives on base, they forfeit their basic allowance for housing. When a member lives in a privatized community, the Department of Defense adds the allowance to their pay statement, but this is money they never see.

When the Department of Agriculture includes this amount as income, it affects many families' eligibility for free or reduced school lunches. Schoolchildren lose their free lunches, families lose their assistance, and school districts lose Federal funds that receive this money to assist for free and reduced school lunch programs.

At the Naval Amphibious Base Little Creek in Virginia Beach, they were working with the Department of Housing Authority to plan for privatized housing in Virginia Beach and Norfolk, which I represent. I do not want to see what is happening in the district of the gentlewoman from California (Mrs. DAVIS) happen to the military families in our area.

I urge my colleagues to support this amendment. I thank the gentlewoman from California (Mrs. DAVIS) for introducing it.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $4,137,086,000, to remain available through September 30, 2003: *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That of the total amount available, the Secretary may obligate up to $25,000,000 for the farmers' market nutrition program and up to $15,000,000 for senior farmers' market activities from any funds not needed to maintain current caseload levels: *Provided further*, That notwithstanding section 17(h)(10)(A) of

such Act, up to $10,000,000 shall be available for the purposes specified in section 17(h)(10)(B), no less than $6,000,000 of which shall be used for the development of electronic benefit transfer systems: *Provided further*, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: *Provided further*, That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $21,991,986,000, of which $1,000,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further*, That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act: *Provided further*, That funds provided under this heading may be used to procure food coupons necessary for program operations in this or subsequent fiscal years until electronic benefit transfer implementation is complete.

COMMODITY ASSISTANCE PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) and the Emergency Food Assistance Act of 1983, $152,813,000, to remain available through September 30, 2003: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program: *Provided further*, That of the total amount available, the Secretary may obligate up to $15,000,000 for senior farmers' market activities from any funds not needed to maintain current caseload levels: *Provided further*, That notwithstanding section 5(a)(2) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note), $21,820,000 of this amount shall be available for administrative expenses of the commodity supplemental food program.

FOOD DONATIONS PROGRAMS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973; special assistance for the nuclear affected islands as authorized by section 103(h)(2) of the Compacts of Free Association Act of 1985, as amended; and section 311 of the Older Americans Act of 1965, $150,749,000, to remain available through September 30, 2003.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $126,656,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law and of which not less than $4,500,000 shall be available to improve integrity in the Food Stamp and Child Nutrition programs: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $122,631,000: *Provided*, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development: *Provided further*, That none of the funds appropriated in this account may be used to pay the salaries and expenses of personnel to disburse funds to any rice trade association under the market access program or the foreign market development program at any time when the applicable international activity agreement for such program is not in effect.

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

PUBLIC LAW 480 PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, $122,600,000, to remain available until expended.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83–480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83–480 are utilized, $2,013,000, of which $1,033,000 may be transferred to and merged with the appropriation for ''Foreign Agricultural Service, Salaries and Expenses'', and of which $980,000 may be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, $20,277,000, to remain available until expended, for ocean freight differential costs for the shipment of agricultural commodities under title I of said Act: *Provided*, That funds made available for the cost of title I agreements and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 480 GRANTS—TITLES II AND III

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, $835,159,000, to remain available until expended, for commodities supplied in connection with dispositions abroad under title II of said Act.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $4,021,000, to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $3,224,000 may be transferred to and merged with the appropriation for ''Foreign Agricultural Service, Salaries and Expenses'', and of which $797,000 may be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $1,342,339,000, of which not to exceed $161,716,000 to be derived from prescription drug user fees authorized by 21 U.S.C. 379(h), including any such fees assessed prior to the current fiscal year but credited during the current year, in accordance with 21 U.S.C. 379h(g)(4), and shall be credited to this appropriation and remain available until expended: *Provided*, That of the total amount appropriated $6,000,000 for costs related to occupancy of new facilities at White Oak, Maryland, shall remain available until September 30, 2003.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio: In title VI, in the item relating to ''DEPARTMENT OF HEALTH AND HUMAN SERVICES-FOOD AND DRUG ADMINISTRATION-SALARIES AND EXPENSES'', insert before the

period at the end of the first paragraph the following:

: *Provided further*, That of the total amount appropriated, $2,500,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to abbreviated applications for the approval of new drugs under section 505(j) of the Federal Food, Drug, and Cosmetic Act, and $250,000 is available under section 903(d)(2)(D) of such Act for the purpose of carrying out public information programs regarding drugs with approved such applications, in addition to other allocations for such purposes made from such total amount

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1630

Mr. BONILLA. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 20 minutes and that the time be equally divided.

The CHAIRMAN pro tempore (Mr. WHITFIELD). The time equally divided between the proponent and an opponent?

Mr. BONILLA. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 3 minutes and 15 seconds.

Within the next 5 years, patents on brand-name drugs with combined U.S. sales approaching $20 billion will expire. Given the tremendous cost savings with generic competition, it has never been more important to reduce unnecessary delays in FDA approval of generic drugs.

The amendment I am offering today, along with the gentleman from California (Mr. WAXMAN), the gentleman from Michigan (Mr. DINGELL), the gentleman from Arkansas (Mr. BERRY), and the gentleman from New Jersey (Mr. PALLONE), would increase funding for the Office of Generic Drugs by $2.5 million. Our amendment builds on the $1.5 million increase already allocated to this office under the leadership of the chairman, the gentleman from Texas (Mr. BONILLA), and the ranking member, the gentlewoman from Ohio (Ms. KAPTUR).

I am pleased the gentlewoman from Ohio (Ms. KAPTUR) supports this amendment. While I understand how difficult it is to allocate limited FDA resources, this amendment will pay for itself many times over. Additional dollars committed to the Office of Generic Drugs will generate enormous returns for American consumers, for Federal and State governments, and for employer-sponsored health plans.

Prescription drug spending increased by 18.8 percent last year, accounting for half the increase in national health spending and a third of the increase in employer-sponsored health coverage. Generic drugs cost on average 40 to 80 percent less than their brand name counterparts. Sometimes they are 90 percent cheaper.

To get a sense of the savings inherent in approving these drugs more rapidly: brand-name drug companies receive 6 additional months of market exclusivity when they conduct pediatric clinical trials. That 6 months, on the average, represents $695 million in lost consumer savings each year. It takes 6 to 12 months, on average, to review a new drug application. It takes 18 months, on average, to review a generic drug application. Multiply that $695 million, Mr. Chairman, times the full universe of generic drugs, and the 6-month difference means tens of billions of dollars in lost savings.

There are 300 scientists on staff today to review generic drug applications. There are more than 2,100 scientists on staff to review new drug applications. By giving the Office of Generic Drugs the resources it needs, we can make a tangible difference in easing the prescription drug spending burden. Opportunities to reduce both public and private spending on prescription drugs without sacrificing access or quality are very hard to come by.

Our amendment provides an additional $250,000 to fully fund a national campaign to raise public awareness about generic drugs. Generic drugs are as safe and as effective as brand-name drugs; they are just cheaper. But there is clearly an information gap when it comes to generics. Eighty-three percent of Americans report no bias against generic drugs, but only 54 percent fill prescriptions with the generics. There is a misperception that as conditions become more serious, the use of generic drugs becomes more risky. The greatest bias against generic drugs exists when cost savings, unfortunately when cost savings are potentially the greatest for serious conditions requiring expensive long-term treatment.

If we can get generic drugs to market on a more timely basis and encourage more widespread use of these products, the public and private sector savings will quickly dwarf our investment. I ask the Members of this Congress to support the amendment.

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

Mr. Chairman, I rise in opposition to the amendment. The bill that the committee has presented to the House includes a very carefully balanced recommendation for funding for the Food and Drug Administration. The $39 million provided in this bill for generic drug activities includes a 17 percent increase for generic drug review, generous by any standard.

I should also note that the funding for generics includes the only FDA program increase above the President's budget, which certainly demonstrates our commitment to affordable, effective, and safe generic drugs. So, again, I rise in opposition to the amendment.

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

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. BERRY), who has fought for low-cost prescription drugs for several years in this body.

Mr. BERRY. Mr. Chairman, I want to thank the distinguished gentleman from Ohio for his leadership in this effort.

The American people, Mr. Chairman, are continuing to be robbed by the brand-name prescription drug manufacturers in this country. The reason that happens is because they have patent protection, they have trade barriers to protect them, and they have limited access to generic medicine. It is time that we do something about that. It is time that we make reasonably priced prescription medicine available to the American people. We know that they could be saving $20 billion a year today if they had access to generic medicine that is not available to them today.

What we are asking in this amendment is that we provide $2.5 million to the FDA so they can have the ability to approve more generic medicine to the American people that would be offered at a much more reasonable price and create competition in the prescription medicine market that we have to deal with today. Generic drugs cost, on the average, 75 percent less than brand names.

As I said, we know that we can save the American people $20 billion a year if we do this. It takes 6 to 12 months to review a new drug application, but it takes 18 months today, because of FDA's limited ability, to approve a generic drug application. This does not make any sense that this would be the case.

So I urge the Members of this House to vote for this amendment and support the effort of the gentleman from Ohio to provide the American people with reasonably priced prescription medicine.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE), who has been very involved in health care issues, especially prescription drug and managed care issues.

Mr. PALLONE. Mr. Chairman, I rise in support of the Brown amendment. There is a need for statutory or legislative initiatives that allow timely access and availability of generic drugs once the patent on a brand-name drug

expires. Brand-name companies have become proficient in manipulating Hatch-Waxman law and aggressive campaigns to block or delay generic alternatives from reaching the market.

One way of alleviating this problem is to provide more funding to the FDA's Office of Generic Drugs. Currently, the agricultural appropriation bill includes a $1.75 million increase in funding for this office, and I would like to see an additional $2.5 million for the Office of Generic Drugs. In addition, I would like to see an investment of an additional $250,000 on top of the $250,000 already in the bill for a national campaign to raise public awareness about the safety and cost effectiveness of generics.

The tactics used by the brand-name industry to delay generic drugs from coming on the market are widespread and well known. By giving the FDA Office of Generic Drugs the appropriate levels of funding, it will have the resources to help move generic drugs to the market more quickly, to run an education campaign, and to overall significantly bring down the cost of prescription drugs.

We need more money for this office so we can reduce the cost of prescription drugs, which is so important to our seniors and to so many Americans. I commend the gentleman from Ohio (Mr. BROWN) for bringing this up, and I urge all my colleagues to support the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Chairman, I would like to speak in favor of this amendment. This is a very critical allocation of funds, primarily because we are having such a difficult time in getting generic drugs to the market.

Let me just point out that I am the sole person who is responsible for my mother-in-law. I just wrote a check to Bill's Pharmacy in Cape Girardeau, Missouri, $636 for four different medicines last month. The month before that I wrote a check for $572. The month before that I wrote a check for $835. And these are for brand-name drugs because it is very difficult to get a generic equivalent to market. It is atrocious.

Now, my mother-in-law has a supplemental Blue Cross/Blue Shield policy. It only goes up to $1,500, so my colleagues can imagine how quickly she uses that, because of the money that I have had to spend on her behalf.

So, Mr. Chairman, I think this is an absolutely important and critical amendment, and I hope that the chairman will allow it to be considered.

Mr. BROWN of Ohio. Mr. Chairman, I thank the gentlewoman from Missouri.

Mr. Chairman, I yield 30 seconds to my friend, the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I am proud to stand in support the bill. I want to thank both the chairman of the subcommittee and also the ranking member because this amendment actually builds on the $1.5 million increase they have in the bill. This would help move generic drugs to the market quicker. We are talking about $2.5 million. It typically takes 6 to 12 months to review a new drug application, but 18 months for the generic drugs.

This will help all our people, but particularly our seniors, who take more prescription drugs and spend billions every year on prescription drugs. Let us see if we can get generics there to save our seniors some dollars.

Mr. BROWN of Ohio. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Ohio has 2 minutes remaining.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him so very much for bringing up this important amendment.

I think it is important for the membership to know this does not involve any new money but merely a reallocation of funds within the Food and Drug Administration itself. So this is a very, very worthy amendment.

We have had to try to fight in this bill and the bill last year to try to get more attention to the approval of generic drugs, which so many Americans obviously need. They are a lot less expensive. I can remember when Claude Pepper used to stand on this floor trying to get generic drug incentives put into the law.

So I want to thank the gentleman from Ohio, as always, taking the leadership on health questions and certainly trying to get medicine to people who need it. In my neighborhood, there are many citizens who make a choice between food and medicine every weekend when they shop at the local supermarket. This will help families like them.

We need to get FDA working more quickly. And I am so happy that the gentleman from the Committee on Energy and Commerce has brought this to our attention and has given us additional drive to get additional generic drugs approved. So I fully support his amendment. It is within the budget resolution and within our allocation, and I would urge the membership to support him.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentlewoman from Toledo.

In summary, Mr. Chairman, this amendment increases funding for the Office of Generic Drugs, to speed the approval process for generic drugs, to get them on the market more quickly, because generic drugs save money; always 40 to 60 to 80 percent over the price of a name-brand drug, sometimes as much as 90 percent. Consumers deserve access to generic drugs as quickly as possible. It will save money for America's consumers; it will save money for all levels of government that provide prescription drugs to employees and to citizens of this country; it will save money for employer health care plans.

Mr. Chairman, I ask for support of the Brown amendment on generics.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. BROWN) will be postponed.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Ohio:

In title VI, in the item relating to ''DEPARTMENT OF HEALTH AND HUMAN SERVICES-FOOD AND DRUG ADMINISTRATION-SALARIES AND EXPENSES'', insert before the period at the end of the first paragraph the following:

: *Provided further*, That of the total amount appropriated, $5,000,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to antibiotic drugs, in addition to other allocations for such purpose made from such total amount

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BONILLA. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 20 minutes and that the time be equally divided.

The CHAIRMAN. The Chair would seek clarification. The time divided is between the gentleman from Ohio (Mr. BROWN) and the gentleman from Texas (Mr. BONILLA)?

Mr. BONILLA. The Chair is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. BROWN) and the gentleman from Texas (Mr. BONILLA) each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BROWN).

□ 1645

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment allocates funds to carry out the FDA's antibiotic resistance plan. On January 18, 2001, the FDA, the Centers for Disease Control and Prevention, and the National Institutes of Health unveiled an action plan developed by an interdepartmental task force that provides the United States with a comprehensive approach to combat the emerging threat of antimicrobial resistance. The plan designated 13 near-term priorities to deal with the problem of antibiotic resistance.

The introduction of antibiotics in the 1940s gave the medical community an overwhelming advantage in its fight against infectious diseases, against TB and pneumonia, against cholera and typhoid, against many other long-time killers. But as bacteria have been exposed to antibiotics, resistant strains have emerged as a real threat to the efficacy of antibiotic drugs and to human health. The recent experience of the global medical community with tuberculosis is an excellent example of what can happen when an infectious disease develops antibiotic-resistant strains, and the threat that this poses to public health in the United States and around the world.

Mr. Chairman, multidrug-resistant TB is as a result of antibiotic overuse, incorrect or interrupted treatment, and an inadequate supply of effective drugs. While outpatient treatment for standard TB costs a few thousand dollars, treatment of multidrug-resistant TB, MDRTB, costs as much as $250,000, and it may not be successful.

Mr. Chairman, we do not want to see this scenario of increased costs and increased mortality repeated with other infectious diseases. The first step in addressing the problem of antibiotic resistance is to identify the true scope of the problem. We know that AR infections are seen more often in emergency rooms. We know that antibiotic resistance occurs wherever antibiotics are used, and we know that overuse and misuse of antibiotics exacerbates the problems of antibiotic resistance.

But we need to know which drugs are being affected most, and when, how and why antibiotic drugs are being prescribed. We must educate the American public on the proper use of antibiotics, and we must encourage the development of new antimicrobial therapies.

The amendment I am proposing today does not seek to ban the use of any antibiotics, it would simply appropriate the funds necessary to implement those near-term priorities of the government's action plan that would take place at FDA. These priorities were not set by me. They were not set by my colleagues. They were not set by any special interest groups. They were established by doctors and scientists and public health officials from FDA, CDC, NIH and other Federal agencies.

The Committee on Appropriations has recommended a $126 million budget increase for FDA over last year. This $5 million set aside would allow FDA to begin to execute the portions of the antibiotic resistance action plan within its responsibility and would leave the decision on the sources of the offset to the Agency.

Mr. Chairman, I ask for Members to support the Brown amendment on antibiotic resistance.

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

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

Mr. Chairman, I rise in opposition to the amendment. The bill that the committee has presented to the House includes a very carefully balanced recommendation for funding for the Food and Drug Administration, including $27 million for antimicrobial resistance activities. This is an increase of over 70 percent from just 2 years ago, which clearly demonstrates our commitment in this area.

The gentleman's amendment proposes to increase funding for certain purposes, but it makes no proposal on where the money should come from. I would like to say that I am very happy that we were able to provide significant increases for the FDA. It is vitally important for that agency to have the resources to perform its public health mission. We were able to provide them the following increases above last year's level: $15 million to prevent BSE, or bovine spongiform encephalopathy, which is commonly known as mad cow disease; $10 million to increase the number of domestic and foreign inspections, and to expand import coverage in all product areas; $10 million to reduce adverse events related to medical products; $10 million to better protect volunteers who participate in clinical research studies; $9 million to provide a safer food supply; $1.75 million to improve the timeliness of generic drug application review and to provide generic drug education; and full funding of increased payroll costs for existing employees.

I want to stress how important this is. In the past, FDA and all other agencies in this bill were forced to reduce the level of services provided to the public in order to absorb payroll increases. This year we want to be sure that does not happen. I am sure that we all want to see that there is no slippage of activities at FDA involving research, application review, inspections, and all of the other payroll-intensive operations that are financed through our bill. We worked hard to find these resources. I am glad we were able to do it, and I am sure FDA will put them to good use.

Now here is my point. In the real world, when we go to conference with the other body, the increase that the gentleman's amendment proposes would have to come out of other increases that the committee provided. So where should it come from? Should we reduce FDA's food safety activities? We have heard a number of speeches today that told us not to do that. Should we reduce protection for people participating in clinical trials, or reduce resources for blood safety or BSE prevention?

Mr. Chairman, I ask all Members to support the committee's recommended increases in FDA. I oppose the gentleman's amendment, and I ask for its defeat.

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

Mr. BROWN of Ohio. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I rise in strong support of the Brown-Slaughter amendment. This amendment would set aside $5 million in the FDA's budget for the purpose of implementing FDA's portion of the public health action plan to combat antimicrobial resistance. As a former microbiologist with a master's degree in public health, I am profoundly concerned over the rising number of infections that do not respond to the majority of antibiotics in our medical arsenal.

In my judgment, the resistance of bacterial infections to antibiotics represents a major public health crisis in the Nation today. According to the Centers for Disease Control and Prevention, in some parts of the country more than 40 percent of streptococcus pneumonae infections are highly resistant to penicillin. Moreover, approximately 70 percent of the bacterial infections acquired in a hospital setting are resistant to at least one antimicrobial drug. As long ago as 1997, at least one strain of staphylococcus developed resistance against the last and strongest antibiotic available: vancomycin.

These facts have a real impact on patients. According to the WHO, 1 American dies every 38 minutes because of a drug-resistant infection. When first-line drugs against these infections are not effective, patients are sicker for longer periods of time. In the case of patients with suppressed immune systems, or those recovering from surgery or injury, a delay in effective treatment of infection can be fatal. Children are particularly susceptible. In 1999, the CDC reported that four otherwise healthy children had died of drug-resistant staphylococcus aureus infections.

If we fail to slow the rise of resistance to these infections, we could find ourselves returning to a day when common infections like tuberculosis and salmonella could become untreatable, and potentially fatal.

A wide range of factors are contributing to the rise of resistance of antimicrobial agents. They include the overprescription of antibiotics, viral infections which do not respond to antibiotics; the misuse of antibiotics, such as the use of a newer, broad-range antibiotic when a less recent version would be equally effective; and the decline in simple sanitation measures, like effective hand-washing.

The various agencies responsible for the many aspects of the antimicrobial resistance issue have come together and issued a comprehensive plan of attack against this problem. ''A Public Health Action Plan to Combat Antimicrobial Resistance'' was developed in partnership by the FDA, the CDC, and the National Institutes of Health, with input and assistance from the Agency for Health Care Research and Quality, the Department of Agriculture, Department of Defense, Department of Veterans Affairs, the Environmental Protection Agency, the Health Care Financing Administration, and the Health Resources and Services Administration.

This was an exhaustive and overarching effort to show the advance of antimicrobial resistance. As one of the lead agencies in developing this plan, the FDA has a crucial role to play in its implementation. The Brown-Slaughter amendment would set aside $5 million for the FDA to begin to stem the rising tide of antimicrobial resistance. This modest investment has the potential to save untold numbers of lives.

I urge my colleagues in the strongest possible terms to support the Brown-Slaughter amendment. Antimicrobial resistance is a quiet crisis growing in the United States, and we ignore it at our own risk.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me this time, and thank him for his leadership on this issue.

Mr. Chairman, how many times have Americans gone to a doctor, been prescribed an antibiotic only to find out it did not work, that it was not effective for them? This vignette of a patient taking medication, hoping it is going to be of value to fight infection is something that is repeated many times around the world. Yet we know for some reason antibiotics are not effective because of certain resistance. What the gentleman from Ohio (Mr. BROWN) is doing is trying to get an additional $5 million to fund components of the action plan to combat antimicrobial resistance.

Mr. Chairman, this money will be money well spent because this is not only a health problem in this country, this is a world health problem. I thank the gentleman for his dedication.

Mr. BROWN of Ohio. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR), who is the ranking member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, I want to compliment the gentleman from Ohio (Mr. BROWN) for taking leadership on this important issue of antimicrobial research.

Mr. Chairman, it has been amazing to me among families and friends, staff members and their families back home, how many individuals go into a hospital and are the victims of an infection. In spite of some of the best knowledge we have with modern medicine, yet we find that there is this antimicrobial resistance that in some ways is as a result of the technologies that we brought on board in the 20th century.

As we now embark on the 21st century, this research to add funding to help to expedite the action plan to combat antimicrobial resistance is essential. We know that life transforms and that every action has an equal and opposite reaction. I am sure that is the case, that scientists note every day, whether we are talking about HIV-AIDS or whether we are talking about some type of staphylococcus infection which becomes resistant to antibiotics which have been brought on board in years past.

We need to know which drugs are being affected most; how, when and why antibiotic drugs are being prescribed. We must educate physicians and the public on the proper use of antibiotics. I have been amazed at people who have taken antibiotics and find their systems having to readjust anywhere from 6 months to a year.

Mr. Chairman, I want to compliment the gentleman. The amendment would simply authorize funding for priorities already set by the health agencies of this government. I urge my colleagues for a ''yes'' vote on this important amendment on antimicrobial research. It provides $5 million to the FDA to expedite the carrying out of priority action items designated under an adopted action plan.

□ 1700

Mr. BROWN of Ohio. Mr. Chairman, I yield myself the balance of my time.

I ask my colleagues to speak to a physician or to a nurse or to a hospital administrator or to a medical researcher about this problem of antibiotic resistance. Every one of them will tell you that they know of cases, they have seen cases, they have seen the damage done by cases where antibiotic resistance is very real. Antibiotics are not as effective as they were a year ago or 5 years ago or 10 years ago. They also will tell you that we need action, we need to begin to recognize the problem, we need to anticipate the problem of growing resistance to antibiotics, and we need to do something about the problem.

This amendment does not ban any antibiotics. It simply carries out the action plan that our government has suggested. I ask for support for the Brown-Slaughter amendment.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from Ohio (Mr. BROWN).

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

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. BROWN) will be postponed.

AMENDMENT OFFERED BY MR. ENGEL

Mr. ENGEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ENGEL:

In title VI, in the item relating to ''DEPARTMENT OF HEALTH AND HUMAN SERVICES-FOOD AND DRUG ADMINISTRATION-SALARIES AND EXPENSES'', insert before the period at the end of the first paragraph the following:

: *Provided further*, That of the total amount appropriated, $250,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to food labeling within the meaning of section 403 of the Federal Food, Drug, and Cosmetic Act, in addition to other allocations for such purpose made from such total amount

Mr. LATHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment be limited to 30 minutes and that the time be equally divided between the proponent and an opponent.

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. ENGEL) will be recognized for 15 minutes and the gentleman from Iowa (Mr. LATHAM) will be recognized for 15 minutes.

There was no objection.

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

Mr. Chairman, my amendment sets aside $250,000, which in the totality of this budget is very, very small, for the FDA to develop labeling requirements indicating that no child slave labor was used in the growing and harvesting of cocoa.

Forty-three percent of the world's cocoa beans come from small scattered farms in the Ivory Coast. The beans are prized for their quality and abundance. In the first 3 months of 2001, more than 47,300 tons of them were shipped to the United States to be processed by U.S. cocoa processors.

There are more than 600,000 small farms and no corporate or government agency in the Ivory Coast is monitoring them for slave trade. The United Nations estimates that approximately 200,000 slaves are working in various trades in West Africa and the State Department has estimated that about

15,000 children between the ages of 9 and 12 have been sold into forced labor in northern Ivory Coast in recent years. Let me repeat that. The State Department has estimated that about 15,000 children between the ages of 9 and 12 have been sold into forced labor in northern Ivory Coast in recent years.

On many of the farms, the fields are cleared and the crops are harvested by boys between the ages of 12 and 16 who were sold or tricked into slavery. Some are even as young as 9. These boys come from neighboring countries, including Mali, Burkina Faso, Benin, and Togo and do not speak the most common language used in the Ivory Coast, French. They are children, who, out of respect, will do anything to help their parents. The boys are uneducated, come from poor countries and are wooed by offers of money, bicycles, and trade jobs. ''Locateurs'' offer them work as welders or carpenters, and they are told falsely that they will be paid $170 a year. As soon as they accept the offer, they are sold into slavery and are forced to clear the fields and harvest the cocoa crop. They live on corn paste and bananas, work 12 to 14 hours a day for no pay, suffer from whippings, are locked up at night in small, windowless rooms, and are given cans to urinate in.

One of these boys, Aly Diabate, was sold into slavery when he was barely 4 feet tall. He said, ''Some of the bags were taller than me. It took two people to put the bag on my head. And when you didn't hurry, you were beaten. The beatings were a part of my life. Anytime they loaded you with bags and you fell while carrying them, nobody helped you. Instead, they beat you and beat you until you picked it up again.''

Mr. Chairman, this must be stopped. Just like we cannot accept slave labor in factories in Asia, we must not accept products being sold in this country that are made by enslaved child labor. In 1999, former President Clinton issued an executive order prohibiting Federal agencies from purchasing products made by enslaved children. However, cocoa products were not included on this list.

Americans spend $13 billion a year on chocolate. I love chocolate. But most of them are ignorant of where the cocoa beans come from. And a lot of the cocoa beans come from the Ivory Coast. We must change that. This amendment provides funding for the FDA to develop a label indicating that enslaved child labor was not used to harvest the cocoa beans. That is all this does. We want to ensure that when people of this country eat chocolate, they are not eating chocolate that was processed by child slavery.

I urge my colleagues to support this amendment.

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

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

I rise in opposition to the amendment. As with the prior two amendments, we have fully funded FDA's budget request for this activity. Additional money for food labeling will come from other vital areas.

I ask rhetorically, from which priority would the gentleman prefer to delete the $250,000? From blood safety, from developing methods to detect food pathogens, or even generic drug review?

I oppose this amendment and urge my colleagues to do the same.

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

Mr. ENGEL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I hope that the Members will take this amendment seriously, because it is in fact a very serious matter. It is, in some measure, a result of this global trading pattern that we have engaged in without really examining closely and understanding fully the consequences of this system.

A recent report by our own State Department estimated that there are currently some 15,000 children working on cocoa and similar plantations in the Ivory Coast alone. That is the source of about 43 percent of the cocoa that is imported into this country. I think that if people in this country knew that they were buying products that were the result of slave labor, particularly the labor of children as young as 8 or 9 years old, they would not buy it. And I think that this amendment which proposes a simple labeling mechanism to indicate where this cocoa is coming from and the slave conditions under which it is being farmed and harvested is a good amendment and it ought to be adopted.

Mr. ENGEL. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member on the agriculture subcommittee.

Ms. KAPTUR. Mr. Chairman, I thank my esteemed colleague the gentleman from New York for yielding me this time and rise in support of his amendment which is a very straightforward and simple amendment to ask FDA to engage itself in the proper labeling of goods that come into this country. In the area of cocoa beans and chocolate, I think we do not often think of where a product's ingredients come from.

Mr. Chairman, I include for the RECORD an article that was published in the St. Paul Pioneer Press on June 24 of this year that talks about the cocoa beans that come here to America blended into our product from places like the Ivory Coast.

[From the St. Paul Pioneer Press, June 24, 2001]

DALOA, IVORY COAST

There may be a hidden ingredient in the chocolate cake you baked, the candy bars your children sold for their school fund-raiser or that fudge ripple ice cream cone you enjoyed on Saturday afternoon. Slave labor. Forty-three percent of the world's cocoa beans, the raw material in chocolate, come from small, scattered farms in the poor West African country of Ivory Coast. And on some of the farms, the hot, hard work of clearing the fields and harvesting the crop is done by boys who were sold or tricked into slavery. Most of them are 12 to 16 years old. Some are as young as 9. The slaves live on corn paste and bananas. Some are whipped, beaten and broken like horses to harvest the almond-size beans.

The State Department's human rights report last year concluded that some 15,000 children ages 9 to 12 have been sold into forced labor on cotton, coffee and cocoa plantations in northern Ivory Coast in recent years.

Aly Diabate was almost 12 when a slave trader promised him a bicycle and $150 a year to help support his poor parents in Mali. He worked for a year and a half for a cocoa farmer who is known as ''Le Gros'' (''The Big Man'') but he said his only rewards were the rare days when Le Gros' overseers or older slaves didn't flog him with a bicycle chain or branches from a cacao tree.

Cocoa beans come from pods on the cacao tree. To get the 400 or so beans it takes to make a pound of chocolate, the boys who work on Ivory Coast's cocoa farms cut pods from the trees, slice them open, scoop out the beans, spread them in baskets or on mats and cover them to ferment. They uncover the beans, put them in the sun to dry, bag them and load them onto trucks to begin the long journey to America or Europe.

Aly said he doesn't know what the beans from the cacao tree taste like after they've been processed and blended with sugar, milk and other ingredients. That happens far away from the farm where he worked, in places such as Hershey, Pa., Milwaukee and San Francisco.

''I don't know what chocolate is,'' said Aly. The chocolate chain Americans spend $13 billion a year on chocolate, but most of them are as ignorant of where it comes from as the boys who harvest cocoa beans are about where their beans go.

More cocoa beans come from Ivory Coast than from anyplace else in the world. The country's beans are prized for their quality and abundance, and in the first three months of this year, more than 47,300 tons of them were shipped to the United States through Philadelphia and Brooklyn, N.Y., according to the Port Import Export Reporting Service. At other times of the year, Ivory Coast cocoa beans are delivered to Camden, N.J., Norfolk, Va., and San Francisco.

From the ports, the beans are shipped to cocoa processors. America's biggest are ADM Cocoa in Milwaukee, a subsidiary of Decatur, Ill.-based Archer Daniels Midland; Barry Callebaut, which has its headquarters in Zurich, Switzerland; Minneapolis-based Cargill; and Nestle USA of Glendale, Calif., a subsidiary of the Swiss food giant.

But by the time the beans reach the processors, those picked by slaves and those harvested by free field hands have been jumbled together in warehouses, ships, trucks and rail cars. By the time they reach consumers in America or Europe, free beans and slave beans are so thoroughly blended that there is no way to know which chocolate products taste of slavery and which do not.

Even the Chocolate Manufacturers Association, a trade group for American chocolate makers, acknowledges that slaves are harvesting cocoa on some Ivory Coast farms.

And a 1998 report from UNICEF, the United Nations Children's Fund, concluded that some Ivory Coast farmers use enslaved children, many of them from the poorer neighboring countries of Mali, Burkina Faso, Benin and Togo. A report by the Geneva, Switzerland-based International Labor Organization, released June 15, found that trafficking in children is widespread in West Africa.

SOME OF THE BAGS WERE TALLER THAN ME

Aly Diabate and 18 other boys labored on a 494-acre farm, very large by Ivory Coast standards, in the southwestern part of the country. Their days began when the sun rose, which at this time of year in Ivory Coast is a few minutes after 6 a.m. They finished work about 6:30 in the evening, just before nightfall, trudging home to a dinner of burned bananas. A treat would be yams seasoned with saltwater ''gravy.''

After dinner, the boys were ordered into a 24-by-20-foot room, where they slept on wooden planks. The window was covered with hardened mud except for a baseball-size hole to let some air in. ''Once we entered the room, nobody was allowed to go out,'' said Mamadou Traore, a thin, frail youth with serious brown eyes who is 19 now. ''Le Gros gave us cans to urinate. He locked the door and kept the key.''

''We didn't cry, we didn't scream,'' said Aly. ''We though we had been sold, but we weren't sure.'' The boys became sure one day when Le Gros walked up to Mamadou and ordered him to work harder. ''I bought each of you for 25,000 francs'' (about $35), the farmer said, according to Mamadou. ''So you have to work harder to reimburse me.''

Aly was barely 4 feet tall when he was sold into slavery, and he had a hard time carrying the heavy bags of cocoa beans. ''Some of the bags were taller than me,'' he said. ''It took two people to put the bag on my head. And when you didn't hurry, you were beaten.'' You can still see the faint scars on his back, right shoulder and left arm. ''They said he wasn't working very hard,'' said Mamadou.

''The beatings were a part of my life,'' Aly said. ''Anytime they loaded you with bags and you fell while carrying them, nobody helped you. Instead, they beat you and beat you until you picked it up again.

Le Gros, whose name is Lenikpo Yeo, denied that he paid for the boys who worked for him, although Ivory Coast farmers often pay a ''finder's fee'' to someone who delivers workers to them. He also denied that the boys were underfed, locked up at night or forced to work more than 12 hours a day without breaks. He said they were treated well, and that he paid for their medical treatment. ''When I go hunting, when I get a kill, I divide it in half—one for my family and the other for them. Even if I kill a gazelle, the workers come and share it.''

He denied beating any of the boys. ''I've never, ever laid hands on any one of my workers,'' Le Gros said. ''Maybe I called them bad words if I was angry. That's the worst I did.'' Le Gros said a Malian overseer beat one boy who had run away, but he said he himself did not order any beatings.

A BOY ESCAPES

One day early last year, a boy named Oumar Kone was caught trying to escape. One of Le Gros' overseers beat him, said the other boys and local authorities. A few days later, Oumar ran away again, and this time he escaped. He told elders in the local Malian immigrant community what was happening on Le Gros' farm. They called Abdoulaye Macko, who was then the Malian consul general in Bouake, a town north of Daloa, in the heart of Ivory Coasts's cocoa- and coffee-growing region. Macko went to the farm with several police officers, and he found the 19 boys and young men there. Aly, the youngest, was 13. The oldest was 21.

''They were tired, slim, they were not smiling.'' Macko said. ''Except one child was not there. This one, his face showed what was happening. He was sick; he had (excrement) in his pants. He was lying on the ground, covered with cacao leaves because they were sure he was dying. He was almost dead. . . . He had been severely beaten.''

According to medical records, other boys had healed scars as well as open, infected wounds all over their bodies. Police freed the boys, and a few days later the Malian consulate in Bouake sent them all home to their villages in Mali. The sick boy was treated at a local hospital, and then he was sent home, too.

Le Gros was charged with assault against children and suppressing the liberty of people. The latter crime carries a five- to 10-year prison sentence and a hefty fine, said Daleba Rouba, attorney general for the region. ''In Ivorian law, and adult who orders a minor to hit and hurt somebody is automatically responsible as if he has committed the act,'' said Rouba. ''Whether or not Le Gros did the beatings himself or ordered somebody, he is liable.'' Le Gros spent 24 days in jail, and today he is a free man pending a court hearing that is scheduled for Thursday.

He said the case against Le Gros is weak because the witnesses against him have all been sent back to Mali. ''If the Malian authorizes are willing to cooperate, if they can bring two or three of the children back as witnesses, my case will be stronger,'' Rouba said. Mamadou Diarra, the Malian consul general in Bouake, said he would look into the matter.

OFFICIAL RESPONSES

Child trafficking experts say inadequate legislation, ignorance of the law, poor law enforcement, porous borders, police corruption and a shortage of resources help perpetuate the problem of child slavery in Ivory Coast. Only 12 convicted slave traders are serving time in Ivorian prisons. Another eight, convicted in absentia, are on the lam.

Ivorian officials have found scores of enslaved children from Mali and Burkina Faso and sent them home, and they have asked the International Labor Organization, a global workers' rights agency, to help them conduct a child-labor survey that's expected to be completed this year. But they continue to blame the problem on immigrant farmers from Mali and on world cocoa prices that have fallen almost 24 percent since 1996, from 67 cents a pound to 51 cents, forcing impoverished farmers to use the cheapest labor they can find.

Ivory Coast Agriculture Minister Alfonse Douaty calls child slavery a marginal ''clandestine phenomenon'' that exists on only a handful of the country's more than 600,000 cocoa and coffee farms. ''Those who do this are hidden, well hidden,'' said Douaty. He said his government is clamping down on child traffickers by beefing up border patrols and law enforcement, and running education campaigns to boost awareness of anti-slavery laws and efforts.

Douaty said child labor in Ivory Coast should not be called slavery, because the word conjures up images of chains and whips. He prefers the term ''indentured labor.''

Ivory Coast authorities ordered Le Gros to pay Aly and the other boys a total of 4.3 million African Financial Community francs (about $6,150) for their time as indentured laborers. Aly got 125,000 francs (about $180) for the 18 months he worked on the cocoa farm.

Aly bought himself the very thing the trader who enslaved him promised: a bicycle. It has a light, a yellow horn and colorful bottle caps in the spokes. he rides it everywhere.

I cannot read the entire article, but I will just read a few sentences, where it indicates 43 percent of the world's cocoa beans come from small scattered farms in poor West African countries like Ivory Coast where harvesting of the crop is done by boys who were sold or tricked into slavery. They talk about 15,000 children ages 9 to 12 sold into forced labor and that it takes 400 or so beans to make one pound of chocolate. The boys who pick these beans do not know what chocolate tastes like because they never have a chance to eat the final product.

The beans that they harvest go to places like Hershey, Pennsylvania; Milwaukee, Wisconsin; and San Francisco. America's biggest users of these beans are ADM Cocoa in Milwaukee, a subsidiary of Illinois-based Archer Daniels Midland; Barry Callebaut, which has its headquarters in Zurich, Switzerland; Minneapolis-based Cargill; and Nestle USA of Glendale, California, a subsidiary of the Swiss food giant.

It talks about these boys being beaten and held, being tired, slim with no smiles, and many boys having healed scars as well as open infected wounds all over their bodies. It talks about the reasons that there is no law enforcement in the countries which are the suppliers. And it talks about the amount of money being made by the firms that use this kind of indentured servitude.

I think $250,000 out of a multibillion-dollar budget is almost nothing to ask to have proper labeling of a product. If we can have happy faces on carpets that come from the Indian subcontinent, we can certainly have proper labeling of chocolate products that come into this country from places like Ivory Coast. I really want to thank the gentleman from New York (Mr. ENGEL), who is a member of the Committee on International Relations, for bringing this issue to us.

It is always difficult for us to get labeling legislation passed by this subcommittee and full committee, but, my goodness, do we not have a moral responsibility to do this? It is within budget, what he is asking to do. It is asking FDA to meet not only its scientific responsibilities to this country but its moral responsibilities.

Mr. Chairman, I rise in strong support of the Engel amendment and commend the gentleman for bringing this again to the House floor so the American people can understand what is going on.

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

I think that the gentlewoman from Ohio made two very, very good points at the end. Throughout her speech she made good points, but I want to raise two that she made at the end. This is only $250,000. It is a very, very small amount, and such a small amount to ensure that the cocoa and the chocolate in this country has not come to be by slave labor of children. I think that is a very, very small price to pay.

There is a moral responsibility as the gentlewoman points out, a moral responsibility for us not to allow slavery, child slavery, in the 21st century. This is a small amount of money, it is in the budget, it will not do any harm whatsoever; and I think that it will certainly bring us to the point that this Congress can look with pride and say that we are making an attempt to stop something that we thought did not exist anymore and only now are we being made aware of the fact that slavery is continuing to rear its ugly head in the year 2001.

I want to just again urge my colleagues to support this. This should have bipartisan support because again we are talking about children and we are talking about slavery. I do not think the American people would want to knowingly eat chocolate or cocoa that was harvested by children who have been tricked into slavery.

□ 1715

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

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from New York (Mr. ENGEL).

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

Mr. ENGEL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. ENGEL) will be postponed.

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ISAKSON) having assumed the chair, Mr. BASS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

LIMITING AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2330, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. BONILLA. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2330 in the Committee of the Whole pursuant to House Resolution 183, no further amendment to the bill may be offered except the following amendments, each of which shall be debatable for 10 minutes:

An amendment offered by Mrs. CLAYTON related to rental assistance, which may be offered at any time during consideration; an amendment offered by Mr. TRAFICANT related to Buy American; an amendment offered by Mr. ALLEN related to total cost of research and development and approvals of new drugs; an amendment offered by Ms. KAPTUR related to the biofuels; an amendment offered by Ms. KAPTUR related to BSE; an amendment offered by Ms. KAPTUR related to 4–H Program Centennial; an amendment offered by Mr. LUCAS of Oklahoma related to watershed and flood operations; an amendment offered by Mrs. MINK of Hawaii related to the Hawaii Agriculture Research Center; an amendment offered by Mrs. MINK of Hawaii related to the Oceanic Institute of Hawaii; an amendment offered by Mr. BLUMENAUER related to price supports; an amendment offered by Mr. ROYCE related to allocations under the market access program; an amendment offered by Mr. SMITH of Michigan related to the Food Security Act; an amendment offered by Mr. SMITH of Michigan related to the Agriculture Market Transition Act; an amendment offered by Mr. SMITH of Michigan related to the nitrogen-fixing ability of plants; an amendment offered by Mr. BACA related to Hispanic-serving institutions; an amendment offered by Ms. PELOSI related to HIV.

Two, the following additional amendments, each of which shall be debatable for 20 minutes:

An amendment offered by Mr. BROWN related to abbreviated applications for the approval of new drugs under section 505(j) of the Food, Drug and Cosmetic Act; an amendment offered by Mr. STUPAK or Mr. BOEHLERT related to elderly nutrition; an amendment offered by Mrs. CLAYTON related to socially disadvantaged farmers.

Three, the following additional amendments, each of which shall be debatable for 30 minutes:

An amendment offered by Mr. HINCHEY related to American Rivers Heritage; an amendment offered by Mr. KUCINICH related to transgenic fish; an amendment offered by Mr. GUTKNECHT related to drug importation.

Four, the following additional amendments, each of which shall be debatable for 40 minutes:

An amendment offered by Mr. SANDERS related to drug importation; an amendment offered by Mr. WEINER related to mohair.

Five, the following additional amendment, which shall be debatable for 60 minutes, and which may be brought up at any time during consideration:

An amendment offered by Mr. OLVER or Mr. GILCHREST related to Kyoto.

Each additional amendment may be offered only by the Member designated in this request, or a designee; shall be considered as read; shall be debatable for the time specified equally divided and controlled by the proponent and an opponent; shall not be subject to amendment; and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

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

Mr. YOUNG of Florida. Mr. Speaker, reserving the right to object, I only do so to advise the House what we are doing.

After the approval of this unanimous consent request, we will go back to the Committee of the Whole and we will have the votes that were rolled to this time. At the conclusion of that time, I believe we are to deal with the amendment of the gentlewoman from North Carolina (Mrs. CLAYTON) briefly. At that point then, the subcommittee chairman will move to rise; and we will have concluded the business for the day. We will return to this bill the day after we return from our July 4, Independence Day recess.

Mr. Speaker, I withdraw my reservation of objection.

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

Mr. OBEY. Mr. Speaker, reserving the right to object, I would just like to clarify what that means is that after the disposition of the Clayton amendment, we will have the three votes, that will be it for the evening. And then when we return after the July 4 recess, this bill will be the first order of business. We will take it up on Wednesday, and we will debate it to its conclusion?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, this bill would be considered on the day after we return from the recess.

Mr. OBEY. We mean Wednesday by that; do we not?

Mr. YOUNG of Florida. Yes.

Mr. OBEY. That will be the first bill up, and it will be debated to its conclusion?

Mr. YOUNG of Florida. I would expect that it would be first, and I know of no reason why it will not be first.

Mr. OBEY. If I could also clarify the language of the unanimous consent request, the last paragraph reads, ''Each

additional amendment may be offered only by the Member designated in this request.'' By that word ''additional,'' you mean the amendments previously cited, does not the gentleman?

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

Mr. OBEY. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Speaker, that is correct.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore. Pursuant to House Resolution 183 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2330.

□ 1724

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, with Mr. BASS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, a request for a recorded vote on the amendment by the gentleman from New York (Mr. ENGEL) had been postponed and the bill was open for amendment from page 49 line 9 through page 57 line 15.

AMENDMENT OFFERED BY MRS. CLAYTON

Mrs. CLAYTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. CLAYTON:

In title III, in the item relating to ''Rural Housing Insurance Fund Program Account'' add at the end the following:

Of the amounts made available under this heading in chapter 1 of title II of Public Law 106–246 (114 Stat. 540) for gross obligations for principal amount of direct loans authorized by title V of the Housing Act of 1949 for section 515 rental housing, the Secretary of Agriculture may use up to $5,986,197 for rental assistance agreements described in the item relating to ''Rental Assistance Program'' in such chapter: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Control Act of 1985, as amended.

In making available for occupancy dwelling units in housing that is provided with funds made available under the heading referred to in the preceding paragraph, the Secretary of Agriculture may give preference to prospective tenants who are residing in temporary housing provided by the Federal Emergency Management Agency as a result of an emergency.

The CHAIRMAN pro tempore. The Chair would inquire of the gentlewoman from North Carolina (Mrs. CLAYTON), is this the amendment that the Committee of the Whole permitted the gentlewoman to offer?

Mrs. CLAYTON. Mr. Chairman, yes.

Mr. Chairman, the amendment I have offered amends title III of the Rural Housing Insurance Act. Mr. Chairman, this is an amendment that allows us to speak to the issue of rural housing, particularly rental housing, that are not available in our area. What this particular amendment does, it allows for monies that were not spent, that were allocated by this Congress during the floods, on the rental housing. It provides the opportunity to redirect some balance of dollars available. It simply gives authority of those monies to use up to $5.9 million of the balance it has. Originally in the year 2000, the Supplemental Appropriation Act provided $32 million to section 515 and $13.6 million for 1,000 units in section 521.

At the end of this year, they spent $20 million. There remains $12 million unspent.

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

Mrs. CLAYTON. I yield to the gentleman from Texas.

Mr. BONILLA. Mr. Chairman, I apologize for the confusion that we had a few minutes ago, and we would be delighted to accept the amendment of the gentlewoman from North Carolina.

Mrs. CLAYTON. Without me explaining it, the gentleman will accept it? I like that.

Mr. Chairman, I shall not go further as I understand that he is willing to accept my amendment, which gives the opportunity for the five States to now have rental assistance so senior citizens and single family members can have an apartment. I am delighted.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from North Carolina (Mrs. CLAYTON).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment by the gentleman from Ohio (Mr. BROWN); amendment by the gentleman from Ohio (Mr. BROWN); amendment by the gentleman from New York (Mr. ENGEL).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. BROWN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 324, noes 89, not voting 20, as follows:

[Roll No. 208]

AYES—324

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Frank
Frost
Gallegly
Ganske
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Graham
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hansen
Harman
Hart
Hastings (FL)
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh

McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pomeroy
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sununu
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Walden
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOES—89

Akin
Armey
Ballenger
Barr
Biggert
Blunt
Boehner
Bonilla
Brown (SC)
Bryant
Burr
Buyer
Cantor
Chabot
Chambliss
Coble
Collins
Combest
Crane
Crenshaw
Cubin
Culberson
Deal
DeLay
DeMint
Doolittle
Dreier
Dunn
Ehlers
Ferguson
Flake
Frelinghuysen
Gekas
Gibbons
Goss
Granger
Graves
Greenwood
Grucci
Hall (TX)
Hastings (WA)
Hayes
Hayworth
Herger
Hostettler
Isakson
Issa
Istook
Johnson, Sam
Keller
Kerns
Knollenberg
Latham
Lewis (CA)
Linder
Lucas (OK)
McInnis
Miller (FL)
Miller, Gary
Myrick
Nethercutt
Norwood
Osborne
Otter
Oxley
Pence
Pitts
Pombo
Portman
Radanovich
Riley
Ryun (KS)
Scarborough
Schrock
Sessions
Shadegg
Shuster
Simpson
Skeen
Souder
Spence
Stump
Sweeney
Thornberry
Vitter
Walsh
Watkins (OK)
Watts (OK)
Young (FL)

NOT VOTING—20

Barton
Bonior
Burton
Callahan
Diaz-Balart
Everett
Fossella
Gordon
Hall (OH)
Houghton
Largent
Meehan
Platts
Putnam
Ros-Lehtinen
Roukema
Schaffer
Smith (TX)
Thomas
Weldon (PA)

□ 1753

Mr. BARR of Georgia changed his vote from ''aye'' to ''no.''

Messrs. SENSENBRENNER, JOHNSON of Illinois, WAMP, HYDE, KINGSTON, QUINN, HEFLEY, JENKINS, TANCREDO, HOEKSTRA, BASS, DUNCAN, ROGERS of Kentucky, GALLEGLY, KIRK, TIBERI, McCRERY, TAUZIN, GOODLATTE, and TERRY, and Ms. PRYCE of Ohio changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BASS). Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. BROWN OF OHIO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. BROWN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 140, not voting 22, as follows:

[Roll No. 209]

AYES—271

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehrlich
English
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Frank
Frost
Ganske
Gephardt
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Graham
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hastings (FL)
Hefley
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (MI)
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shimkus
Shows
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Wilson
Woolsey
Wu
Wynn

NOES—140

Aderholt
Akin
Armey
Bachus
Ballenger
Barr
Bereuter
Biggert
Bilirakis
Blunt
Boehner
Bonilla
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Chabot
Chambliss
Coble
Collins
Combest
Crane
Crenshaw
Cubin
Culberson
Deal
DeLay
DeMint
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Ferguson
Flake
Frelinghuysen
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goss
Granger
Graves
Greenwood
Grucci
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Isakson
Issa
Istook
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kelly
Kerns
Kingston
Knollenberg
Kolbe
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
McCrery
McKeon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Northup
Norwood
Osborne
Otter
Oxley
Pence
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Rehberg
Riley
Rogers (KY)
Rohrabacher
Ryun (KS)
Scarborough
Schrock
Sessions
Shadegg
Sherwood
Shuster
Simpson
Skeen
Smith (MI)
Souder
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)

Watts (OK)
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—22

Baker
Barton
Bonior
Burton
Callahan
Diaz-Balart
Engel
Everett
Fossella
Hall (OH)
Houghton
Largent
McInnis
Meehan
Platts
Putnam
Ros-Lehtinen
Roukema
Schaffer
Smith (TX)
Thomas
Weldon (PA)

□ 1801

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ENGEL

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. ENGEL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 291, noes 115, not voting 27, as follows:

[Roll No. 210]

AYES—291

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Baca
Bachus
Baird
Baldacci
Baldwin
Barcia
Barrett
Bartlett
Bass
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Calvert
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Costello
Cox
Coyne
Cramer
Crowley
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Duncan
Edwards
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Frank
Frost
Ganske
Gekas
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Graham
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (TX)
Harman
Hart
Hastings (FL)
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kirk
Kleczka
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Petri
Phelps
Pickering
Pitts
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Wolf
Woolsey
Wu
Wynn

NOES—115

Armey
Ballenger
Barr
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Boyd
Brown (SC)
Bryant
Burr
Buyer
Camp
Cannon
Cantor
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Crane
Crenshaw
Cubin
Cunningham
Deal
DeLay
DeMint
Doolittle
Dreier
Dunn
Ehlers
Emerson
Flake
Frelinghuysen
Gallegly
Gibbons
Gillmor
Goode
Goodlatte
Goss
Granger
Graves
Greenwood
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hunter
Hutchinson
Isakson
Issa
Istook
Jenkins
Johnson, Sam
Keller
Kerns
Kingston
Knollenberg
Kolbe
Latham
Linder
Lucas (OK)
McCrery
McKeon
Mica
Miller (FL)
Miller, Gary
Nethercutt
Northup
Norwood
Osborne
Ose
Otter
Oxley
Paul
Peterson (MN)
Peterson (PA)
Pombo
Portman
Pryce (OH)
Radanovich
Regula
Rehberg
Ryun (KS)
Schrock
Sessions
Shadegg
Shuster
Simpson
Skeen
Smith (MI)
Stump
Sweeney
Tancredo
Tauzin
Taylor (NC)
Thornberry
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weller
Wicker
Wilson
Young (AK)
Young (FL)

NOT VOTING—27

Baker
Barton
Bonior
Bono
Burton
Callahan
Conyers
Diaz-Balart
Everett
Farr
Fattah
Fossella
Hall (OH)
Houghton
Jefferson
John
Largent
McInnis
Meehan
Platts
Putnam
Ros-Lehtinen
Roukema
Schaffer
Smith (TX)
Thomas
Weldon (PA)

□ 1809

Ms. HART and Mr. SHAYS changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having resumed the chair, Mr. GOODLATTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2330) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

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

H. Con. Res. 176. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

HEARTFELT THANKS TO ANNE HOLCOMBE, CINDY SEBO, AND VICKY STALLSWORTH

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

Mr. EHLERS. Mr. Speaker, I hope you will be kind on the time allotted, because I want to take a few moments to recognize a very special person who has worked in this Chamber for some time, who has graced this Chamber and has helped us a great deal, and she will soon be leaving, and that is Ms. Anne Holcombe, who is seated at the front desk.

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

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

Mr. DREIER. Mr. Speaker, I thank the gentleman from Michigan (Mr. EHLERS), my friend, for yielding to me.

I join today in recognizing Anne Holcombe. This is her last day as the senior legislative clerk, so I, along with my colleagues, thought it appropriate that we take a 1 minute, since

you enjoy them so much, Anne, a special order.

I know that you enjoy sitting here through special orders. If you had a chance of a 1 minute or a special order, I suspect that you might prefer a 1 minute.

Anne is moving to Charlotte, North Carolina to be closer to her family and to start a new chapter in her life.

I want to wish her well. Our colleague, the former Mayor of Charlotte, North Carolina, a distinguished member of the Committee on Rules, Sue Myrick, will become your representative here in the House.

Anne's professionalism on the dais has been a steady source of confidence that the records of the House will always be in order, that is why we are all very sad to see her leave.

I cannot imagine why Anne would want to leave the House. I know that you greatly enjoy sitting here waiting until 3 o'clock in the morning until the committee that I am privileged to Chair reports a rule down here.

As I said, I know how much you enjoy special orders that often extend up to, under our great reform process, midnight we know, but you do, obviously, grace the dais extraordinarily well.

You have worked here for many years. Anne started in September of 1996, Mr. Speaker, as a legislative information specialist and was responsible for researching, editing, and maintaining the legislative database that we, in the House, as well as the general public, depend on for information about what is happening here in the Congress.

In October of 1997, Anne was promoted to assistant chief floor clerk, where she made sure that the words we spoke on the House floor were transposed into marvelous eloquence, of course, while still complying with the rules of the House.

Then in January of 2000, Anne was promoted again to senior legislative floor clerk. She has done a terrific job in serving this institution and her country very well.

Mr. Speaker, if the gentleman will continue to yield, I would also like to note that we also have two official reporters, one of whom is right here, who is actually finishing her last day, Cindy Sebo, who has worked long and hard, and also Vicky Stallsworth, who is also completing her last day here.

I guess the place is going to be empty when we come back. No one will be here to do any work. I hope very much that these positions are filled.

Let me say to all three that we wish them well in their future endeavors, and I thank my friend for yielding.

Mr. EHLERS. Mr. Speaker, reclaiming my time, I want to add my congratulations to all three of them and especially my heartfelt thanks. I have always made a point of trying to get to know the individuals who work in the front of this Chamber, who keep very long hours and transcribe everything we do and keep good order out of it.

□ 1815

I am delighted that both of the reporters who are leaving us are here present so we can thank both Cindy and Vicky as well. I hope you spell your names properly as you transcribe this.

They work tirelessly. They are going on to other things and other lands. I cannot imagine why Vicky, who is moving to Fort Collins, Colorado; and Anne, who is moving to North Carolina, if you are going to leave Washington to find a better place, I can understand that; but I would certainly recommend Grand Rapids, Michigan, especially this time of year. So come up there and stop in and see us.

Cindy will be leaving for the private sector. She will remain in this area, and we hope we see her around here occasionally.

So from the bottom of my heart, thank you to all of you. Congratulations. God bless you in your future endeavors and employment.

Mr. HOYER. Mr. Speaker, will the gentleman yield.

Mr. EHLERS. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I appreciate the gentleman yielding.

I did not rise to defend the Washington metropolitan area as a place to live, notwithstanding his observations. But I did rise to say thank you on behalf of all of us, not on a partisan sense, although I am on this side of the aisle, and there are others on the other side of the aisle, but to, again, remind ourselves how critically important to the operations of the people's House are those who never rise and speak. They also serve who stand and record, the poet might have said.

To Anne and Cindy and Vicky, we appreciate very much what you have done. You have at times been asked to spend long, long, long hours. You have fought fatigue; and I am sure, although you do not have to admit this, fought boredom as well in the operations that you have been responsible for.

You make it possible for the American public, even if they cannot see us on C–SPAN, even if they cannot be in the gallery, even if years later they are trying to find out what happened on the floor of the House, their House, doing their business, you make it possible for them to find out. You do so with incredible accuracy and efficiency. We thank you for that, and we acknowledge how critically important you are to the operations of this House.

I am not surprised that one of you is going into the private sector. Maybe both of you are going into the private sector, I am not sure, our two reporters, or Anne returning to North Carolina to be closer to her family, because there are, in my opinion, no more talented, no more highly motivated, no more productive people that could be hired by the private sector than those who work on this Hill and certainly, all those who work at the desk and who record our debates.

It is a hallmark of American democracy that we want to be open to the public. We want to have a historic and accurate record of proceedings. You have enabled us to continue to do that.

We thank you. We wish you Godspeed. We hope that you take with you very positive feelings about this House, that you know firsthand that, although there are fights and disagreements, and sometimes we are much smaller than we ought to be, that, at bottom, almost everybody, indeed everybody in this House, cares about their country and cares about their constituents. You have had the opportunity to see that firsthand. As I tell the pages, I hope you will tell that story wide and far.

We thank you, and we wish you the best of everything in the days ahead. Thank you for yielding.

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

Mr. EHLERS. I am happy to yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I, too, would like to add my best wishes to Anne Holcombe as she leaves and also say farewell to Cindy and Vicky for the work that they have done.

Regarding Anne, I was sitting here thinking of the old Irish tune that has the melody of "When Johnny Comes Marching Home." A phrase in there is "Johnny, we hardly got to know you." It just seems like you came last week, and time flies so fast, and we hardly got to know you.

You have done so well. You have been very friendly. You have been very particularly kind to me in making sure the podium is at the right height. Your professionalism, your competency is beyond match. So we thank you for your efforts, your hard work. We wish you the very best in your next chapter of life, and do not forget us. God bless.

Mr. EHLERS. Mr. Speaker, reclaiming my time, I want to thank all three of the speakers, the gentleman from California (Mr. DREIER), the gentleman from Maryland (Mr. HOYER), and the gentleman from Missouri (Mr. SKELTON) for their eloquent comments.

Frankly, they stole my speech, and there is not much I can add to it other than to say, on behalf of all of those who use this Chamber and rely on you as well as the broader American public who sees your work constantly on the screen of their computer or in the journal, the CONGRESSIONAL RECORD, I want to thank all of you for your hard service here. I wish you well. God bless you wherever you go.

ELECTION OF MEMBER TO COMMITTEE ON ARMED SERVICES AND COMMITTEE ON SCIENCE

Mr. FOLEY. Mr. Speaker, I offer a resolution (H. Res. 184), and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 184

Resolved, That the following Member be and is hereby elected to the following standing committees of the House of Representatives:

Armed Services: Mr. Forbes.

Science: Mr. Forbes.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, FRIDAY, JULY 6, 2001 TO FILE REPORTS ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, AND H.R. 2137, CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2001

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight on Friday, July 6 to file the reports to accompany H.R. 2215 and H.R. 2137.

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

There was no objection.

AUTHORIZING THE SPEAKER, THE MAJORITY LEADER, AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS AUTHORIZED BY LAW OR THE HOUSE NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, July 10, 2001, the Speaker, Majority Leader, and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 11, 2001

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 11, 2001.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1613

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent to remove my name from H.R. 1613.

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

There was no objection.

APPOINTMENT OF THE HONORABLE TOM DAVIS TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JULY 10, 2001

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 28, 2001.

I hereby appoint the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 10, 2001.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is agreed to.

There was no objection.

REPORT ON EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–93)

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:

Enclosed is a report to the Congress on Executive Order 12938, as required by section 204 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)).

GEORGE W. BUSH.
THE WHITE HOUSE, *June 28, 2001.*

PRESIDENT'S COMPREHENSIVE NATIONAL ENERGY POLICY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

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 Energy and Commerce, the Committee on Science, the Committee on Resources, the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on Education and the Workforce:

To the Congress of the United States:

One of the first actions I took when I became President in January was to create the National Energy Policy Development Group to examine America's energy needs and to develop a policy to put our Nation's energy future on sound footing.

I am hereby transmitting to the Congress proposals contained in the National Energy Policy report that require legislative action. In conjunction with executive actions that my Administration is already undertaking, these legislative initiatives will help address the underlying causes of the energy challenges that Americans face now and in the years to come. Energy has enormous implications for our economy, our environment, and our national security. We cannot let another year go by without addressing these issues together in a comprehensive and balanced package.

These important legislative initiatives, combined with regulatory and administrative actions, comprise a comprehensive and forward-looking plan that utilizes 21st century technology to allow us to promote conservation and diversify our energy supply. These actions will increase the quality of life of Americans by providing reliable energy and protecting the environment.

Our policy will modernize and increase conservation by ensuring that energy is used as efficiently as possible. In addition, the National Energy Policy will modernize and expand our energy infrastructure, creating a new high-tech energy delivery network that increases the reliability of our energy supply. Further, it will diversify our energy supply by encouraging renewable and alternative sources of energy as well as the latest technologies to increase environmentally friendly exploration and production of domestic energy resources.

Importantly, our energy policy improves and accelerates environmental protection. By utilizing the latest in pollution control technologies to cut harmful emissions we can integrate our desire for a cleaner environment and a sufficient supply of energy for the future. We will also strengthen America's energy security. We will do so by reducing our dependence on foreign sources of oil, and by protecting low-income Americans from soaring energy prices and supply shortages through programs like the Low Income Housing Energy Assistance Program.

My Administration stands ready to work with the Congress to enact comprehensive energy legislation this year.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 28, 2001*.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain 1 minute requests.

CONSERVATION IS CRITICAL PIECE OF PUZZLE

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

Mr. REHBERG. Mr. Speaker, while we all know we cannot conserve our way out of the energy crunch, conservation is a critical piece of the puzzle if we are going to solve this problem. In times like these, each and every American must do their part. This means turning out the lights when leaving a room, walking more often instead of driving, and investing in new technologies and alternative renewable energy sources.

While some in this Chamber merely talk about conservation, President Bush is actually doing something about it.

Today, President Bush announced $77 million in Federal conservation grants which will help accelerate the development of fuel cells in new technology for tomorrow's cars and buildings. These grants will play a critical role in lowering emissions and improving energy efficiency.

Mr. Speaker, instead of throwing rocks and using America's energy problems for political gain, President Bush is providing leadership and solutions.

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.

HIGH COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, today I rise to talk about an issue that is of great concern to all Americans, but is of particular concern to the 53 million Americans that have no health insurance and to the 14 million American seniors that do not have prescription drug coverage under their Medicare benefit. What I am talking about is the high cost of prescription drugs.

I want to show a chart for the benefit of the Members that begins to illustrate just how serious this problem is.

The first chart I want to show my colleagues begins to talk about the differentials or the difference between what we pay in the United States and what they pay in Europe for some of the most commonly prescribed drugs.

We have heard a lot over the last several years about how much difference there is between Canada and the United States and how much difference there is between Mexico and the United States. But many Americans do not realize there are enormous differences between what we pay for exactly the same drugs made in the same plants here in the United States compared to what they pay in Europe.

For example, the first drug on this list is a drug called Allegra, 120 milligrams. It is triple in the United States what they pay in Europe for the same drug. Some people will say, well, they have price controls in Europe. In some countries in Europe, that is true. But in Germany and Switzerland, it is not true.

Take a look at the drug Coumadin, which is a drug that my father takes. In the United States, it is quadruple the $8.22, which they charge for the average price in Europe.

Glucophage, which is a very commonly prescribed drug for people who have diabetes. In the United States, it sells for $30.12 on average for a 1-month supply. In Europe, it is only $4.11. That is seven times more than Americans are required to pay.

Mr. Speaker, my colleagues need to understand that, once a person is diagnosed, it is likely that they will stay on that drug for the rest of their lives. So we are talking about an enormous difference over the life-span of a patient who needs that.

Take a look at a drug Zithromax down here at the bottom. It is a new wonder drug in terms of being an antibiotic. It is a marvelous drug. But I wonder whether Americans should really have to pay triple what consumers in Europe have to pay.

As my colleagues can see, it is $486 for a month's supply here in the United States on average. In Europe, it is only $176.19.

□ 1830

The next chart I want to show is really one of the most troubling charts of all. Last year the average senior got in their cost of living adjustment in the United States a 3.5 percent increase in their Social Security. At the same time, prescription drugs went up 19 percent. My colleagues, this is unsustainable.

Now, I intend to offer an amendment to the ag appropriations bill that will at least clarify that law-abiding citizens have a right, if they have a legal prescription, to buy drugs in Europe. And we are trying to work out the language right now. That is all I want to do.

Some say that the FDA lacks the resources to inspect mail orders. The truth is the FDA is focusing its inspections in the wrong places. Instead of stopping illegal drugs reported by illicit traffickers, the FDA concentrates on approved drugs being brought in by law-abiding citizens. So far this year the FDA has detained 18 times more packages from Canada than they have from Mexico. This is outrageous. They are spending all of their resources chasing law-abiding citizens.

One of the biggest arguments of the people who oppose my amendment is that they say, well, we are going to ultimately have a Medicare benefit, a prescription drug benefit, that will eliminate the need to open the markets so that we get competition in prescription drugs. Well, the truth is simply shifting the burden from those people who currently do not have insurance to the taxpayers will not solve this problem. The problem is there is no real competition.

But the biggest concern that a lot of people raise is what will this do in terms of public safety. Let me say this. More people have been killed in the United States from unsafe tires being brought into the United States from other countries than by bringing legal drugs into the United States by law-abiding citizens. As a matter of fact, there is no known scientific study that demonstrates that there is a threat of injury to patients importing medications, legal medications, with a prescription, from an industrialized country.

What is more, millions of Americans have no prescription drug coverage. Stopping importation of FDA-approved drugs only threatens their safety. Remember, Members, a drug that an individual cannot afford is neither safe nor effective, and too many Americans are put in the position where they simply cannot afford the drugs that they need.

Mr. Speaker, I am not asking for the world. The amendment I intend to offer is very narrowly focused. It simply says that the FDA cannot stand between law-abiding citizens who have legal prescriptions and allowing them to bring into the country drugs which are otherwise approved by the FDA. In fact, we even go further. We say it cannot be a controlled substance. It cannot even be codeine. The drugs we are talking about are drugs that are commonly prescribed. I will appreciate my colleagues' support on that amendment.

Mr. Speaker, I submit herewith for the RECORD a few fact sheets regarding the Medicare drug benefit argument.

Some say a Medicare drug benefit will eliminate the need for importation. The truth is—Simply shifting high drug prices to the government only transfers the burden to American taxpayers. Moreover, Medicare

coverage won't help the millions of Americans without health insurance.

Some say importation is merely an indirect way of enacting price controls. The truth is—''Importing prescription drugs to the United States will lower prices here and, in the long run, force Europe to pay more drug research and development costs. The best way to break down price controls is to open up markets.''—Stephen W. Schondelmeyer, Pharm.D., Ph.D., Professor and Director, PRIME Institute, Head, Dept. of Pharmaceutical Care & Health Systems, College of Pharmacy, University of Minnesota.

Some say the FDA lacks the resources to inspect mail orders. The truth is—The FDA is focusing its inspection resources in the wrong places. Instead of stopping illegal drugs imported by illicit traffickers, the FDA concentrates on approved drugs imported by law-abiding citizens. So far this year, the FDA detained 18 times more packages coming from Canada than from Mexico. Last year, the FDA detained 90 times more packages from Canada than Mexico. Worse, last year Congress appropriated $23 million for border enforcement, but the Secretary of Health and Human Services refused to use the funds.

Some say importation jeopardizes consumer safety. The truth is—No known scientific study demonstrates a threat of injury to patients importing medications with a prescription from industrial countries. What's more, millions of Americans have NO prescription drug coverage. Stopping importation of FDA-approved drug threatens their safety. A drug you can't afford is neither safe nor effective.

REVISIONS TO ALLOCATION FOR HOUSE COMMITTEE ON APPROPRIATIONS

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, pursuant to Sec. 314 of the Congressional Budget Act and Sec. 221(c) of H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002, I hereby submit for printing in the CONGRESSIONAL RECORD revisions to the allocations for the House Committee on Appropriations.

As reported to the House, H.R. 2330, the bill making appropriations for Agriculture and Related Agencies for fiscal year 2002, includes an emergency-designated appropriation providing $150,000,000 in new budget authority and $143,000,000 in new outlays. Under the provisions of both the Budget Act and the budget resolution, I must adjust the 302(a) allocations and budgetary aggregates upon the reporting of a bill containing emergency appropriations.

Accordingly, I increase the 302(a) allocation to the House Appropriations Committee contained in House Report 107–100 by $150,000,000 in new budget authority and $143,000,000 in new outlays. This changes the 302(a) allocation for fiscal year 2002 to $661,450,000,000 for budget authority and $683,103,000,000 for outlays. The increase in the allocation also requires an increase in the budgetary aggregates to $1,626,638,000,000 for budget authority and $1,590,801,000,000 for outlays.

The rule providing for consideration of H.R. 2330 strikes the emergency designation from the appropriation. Upon adoption of the rule, Sec. 314 of the Congressional Budget Act provides that these adjusted levels are automatically reduced by the amount that had been designated an emergency. Should the rule (H. Res. 183) not be adopted, these adjustments shall apply while the legislation is under consideration and shall take effect upon final enactment of the legislation. Questions may be directed to Dan Kowalski at 67270.

MICROBICIDES DEVELOPMENT ACT OF 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. MORELLA) is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, I rise today to introduce the Microbicides Development Act of 2001. I am pleased that so many of my good friends and colleagues have signed on as original cosponsors of this legislation which I am dropping in this evening. My thanks go to them.

Mr. Speaker, this week the United Nations convened a special session of the U.N. General Assembly to address how to combat the spreading HIV and AIDS epidemic. We have entered the third decade in the battle against HIV and AIDS. June 5, 1981, marked the first reported case of AIDS by the Centers for Disease Control, and since that time 400,000 people have died in the United States, and globally 21.8 million people have died of AIDS.

Tragically, women now represent the fastest growing group of new HIV infections in the United States, and women of color are disproportionately at risk. In the developing world, women now account for more than half of the HIV infections, and there is growing evidence that the position of women in developing societies will be a critical factor in shaping the course of the AIDS pandemic.

So what can women do? Women need and deserve access to a prevention method that is within their personal control. Women are the only group of people at risk who are expected to protect themselves without any tools to do so. We must strengthen women's immediate ability to protect themselves, including providing new women-controlled technologies; and one such technology does exist, called microbicides.

The Microbicides Development Act, which I am introducing, will encourage Federal investment for this critical research with the establishment of programs at the National Institutes of Health and the Centers for Disease Control and Prevention. Through the work of NIH, nonprofit research institutions, and the private sector, a number of microbicide products are poised for successful development. But this support is no longer enough for actually getting microbicides through the development pipeline and into the hands of millions who could benefit from them. Microbicides can only be brought to market if the Federal Government helps support critical safety and efficacy testing.

Health advocates around the world are convinced that microbicides could have a significant impact on HIV and AIDS and sexually transmitted diseases. Researchers have identified almost 60 microbicides, topical creams and gels that could be used to prevent the spread of HIV and other sexually transmitted diseases, such as chlamydia and herpes. But interest in the private sector in microbicides research has been lacking.

According to the Alliance for Microbicide Development, 38 biotech companies, 28 not-for-profit groups, and seven public agencies are investigating microbicides, and phase III clinical trials have begun on four of the most promising compounds. The studies will evaluate the compounds' efficacy and acceptability and will include consumer education as part of the compounds' development. However, it will be at least 2 years before any compound trials are completed.

Currently, the bulk of funds for microbicides research comes from NIH, nearly $25 million per year, and the Global Microbicide Project, which was established with a $35 million grant from the Bill and Melinda Gates Foundation. However, more money is needed to bring the microbicides to market. Health advocates have asked NIH to increase the current budget for research to $75 million per year.

Mr. Speaker, today the United States has the highest incidence of STDs in the industrialized world. Annually, it is estimated that 15.4 million Americans acquired a new sexually transmitted disease. STDs cause serious, costly, even deadly conditions for women and their children, including infertility, pregnancy complications, cervical cancer, infant mortality, and higher risk of contracting HIV.

This legislation has the potential to save billions of dollars in health care costs. Direct cost to the U.S. economy of sexually transmitted diseases and HIV infection is approximately $8.4 billion. When the indirect costs, such as lost productivity, are included, that figure will rise to an estimated $20 billion. With sufficient investment, a microbicide could be available around the world within 5 years. Think of the difference that would make.

I urge my colleagues to lend their support to this vital legislation.

Mr. GANSKE. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Iowa.

Mr. GANSKE. Mr. Speaker, I just want to commend the gentlewoman from Bethesda, Maryland, for her longtime concern on issues related to women's health.

I think this is a vitally important bill. It is something that this Congress should pass. It will affect millions and millions of women in a positive way. Sexually transmitted disease is a tremendous problem in this country. My hat is off to the gentlewoman, and I am happy to be a cosponsor of her bill.

Mrs. MORELLA. Mr. Speaker, I was just going to thank the gentleman from Iowa (Mr. GANSKE) for being a cosponsor and for his work in making sure that Americans have appropriate access to health care.

EDUCATION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are about to enter our July recess for the 4th of July holiday, and it must be noted that this Congress has completed two major legislative developments to date. One of those, of course, has been fully completed: the tax bill. That is fully completed, signed into law, and checks will begin to move soon.

Those checks will be going to the people at the very bottom of the rung as a result of legislation which was first proposed by the Progressive Caucus that every American should get some benefit from this tax cut. That did not exactly happen, but every taxpayer is getting a small benefit as a result of the action taken early in the session by the Progressive Caucus. The idea got out there and kept moving until finally it was incorporated in another form in the tax bill. So people at the bottom are going to get some small amount of money from the tax bill. That is real. It is completed.

The other piece of legislation that has almost been completed is the education bill, the leave-no-child-behind legislation of the President. The new President, of course, made this a high priority; and we have moved in both Houses, with both parties cooperating extensively, to pass the leave-no-child-behind legislation separately in the House and in the Senate. But there has been no conference, and the bill is now on hold.

I think it should be noted that there are rumors that the bill will be held deliberately until we have a chance to negotiate the major question of financing for the education bill. Education is on the legislative back burner right now; but in the hearts of the people who are polled out there, legislation is still a number one concern.

Education has to remain on the front burner. The fact it is being held here is a good development in that the critical question in the legislation that passed the House versus the legislation that passed the Senate is the amounts of money that are appropriated to carry out the features of the bill. The amounts of money are critical.

We do state in the legislation that passed the House that there will be an increase in an authorization for an increase in title I funds of double the amount that exist now in 5 years. In 5 years, in other words, we will have twice as much funding for title I as we have today. It will move from the present amount to about $17.2 billion in 5 years under the authorization. Authorization is there. That does not guarantee that the appropriation, of course, will keep pace.

The Senate bill has even more money earmarked for increases, but they do not have a commitment from the White House that the appropriation is going to follow the authorization. The big question is will the authorizations be honored. We had a great deal of effort to get bipartisan agreements.

I reluctantly voted for the education legislation because of the fact it did two things: one, it got rid of the consideration of vouchers for private schools as a Federal policy. And I think to clear the board and have vouchers off the discussion table was good for Federal legislative policy. However, the critical question of will we have more resources was also addressed. And the fact that the bill does promise to double title I funds, which are the funds that go most directly to the areas of greatest need, impressed me to the point where I voted for the bill, even though there were some other features, which I will discuss later, which I do not consider to be desirable.

The critical point is, are there more resources? The need to have resources to maintain what I call opportunity-to-learn standards is a critical point that I have been trying to make for all these years. Opportunity to learn is the most important factor if we really want to improve education and have more youngsters who are attending our public schools benefit from the process. What we are trying to do, however, is force a process of accountability, insist that schools measure progress by the tests that are taken by the students and the scores on the tests, and that that is the way we should measure accountability. A school system is held accountable for improved test scores.

On the other hand, the opportunity-to-learn standards are ignored completely. Opportunity to learn means that before the test is given we must guarantee that the student will have an adequate place to learn; classrooms that are not overcrowded, libraries that have books that are up to date, laboratories that have science equipment. The opportunity to learn means that we have the right equipment, the right facilities. It means that we have certified teachers in the classroom. It means that all the resources that are needed are there before we start the testing.

□ 1845

But the process that we have pushed here is a process which tries to ignore the opportunity to learn as a major factor.

So we need to hold the education legislation because that vital component is missing. Let us hold it until we can negotiate an increase in the resources, an increase in the amount of money we use to purchase resources, and those resources will provide the opportunity to learn. It may be that it will be end-game negotiations all of the way to the end of the session. Education legislation has benefited greatly over the last few years through the end-game negotiation process, right down to the very last hours of the session. When the White House and the Congress came together and they had their priorities on the table, education has fared very well.

Mr. Speaker, I hope that by holding the legislation this time until we get to that end-game negotiation, we will get the kind of funding necessary to make the legislation that we have passed have some real significance. If we do not get some additional funding for the Leave No Child Behind funding, then it is a fraud. It has no substance if it is not going to provide additional resources.

There is a need to refresh ourselves and come back to an understanding of the fact that we have passed these two pieces of legislation in the House of Representatives and the Senate. There is no reason to rest on our laurels. We still have a basic problem of that bill that passed having great gaps in it, and those great gaps are not going to be closed in the end-game negotiation unless the people that we represent, our constituents, understand where we are and why there is a great need for more Federal involvement in the improvement of education.

I want to use as an example a series of articles that have appeared in the Daily News in New York City to talk about the New York City school system, and I want to use New York City as a negative model. It is not the way it should be, but it is the way that it is in most of our large cities. I would not bore my colleagues with a discussion of what is going on in New York City unless I did not think that it was applicable all over the country in other big cities, and it is also applicable in rural areas.

Yesterday we voted on a bill to establish a commission to plan for the anniversary, 50th anniversary, of the Brown v. Board of Education. That anniversary relates to the question of segregation in public schools and whether or not it was legal. The Supreme Court struck down the fact of segregation and clearly made it illegal. Our concerns with segregation have begun to fade as far as segregation by race is concerned. The phenomenon we face now is a more subtle phenomenon. We have segregation in another way; not by race, but segregation of the people who have no power away from those who do have power. It turns out in many cases that the people who do not have power in the big cities are people who happen to be minorities also.

In the rural areas there are large numbers of whites in scattered pockets throughout the country; these are poor people who are in the same position because they have poor schools as a result of having no power. Folks who have money, who have power, always guarantee that their children get the best schooling possible. People with money in larger and larger numbers are sending their children to private schools; and, of course, there are not enough private schools even if everybody had money to afford them. There are not enough private schools to accommodate 53 million children. Others who have power and are in control of their schools and of the budget-making processes of their counties or cities or their school districts, they make certain that they have good schools. Where they have the power to do that, they have done it for their children.

We have a problem, however, because many of the people who have power, who have control about the decision-making over the budget are not involved to the point where their children or grandchildren are in the schools. The people who have the power, the people who have the most influence do not care about public schools enough to follow through on guaranteeing that you have the best schools possible.

We have a serious situation where we have schools that are stuck in a time bind. One of the greatest problems of our schools is that physically so many of them are so old. When one looks at the physical age of the structures, one gets a good visible manifestation of the way in which education and schooling are viewed in that area as a whole. New York is in that kind of bind.

I am going to make it simple by reading from an excellent editorial that appeared in the Daily News which accompanied their series on the New York City school system. I think it was a magnificent series. It pinpointed the problem and was forthright in dealing with the exposure of rampant waste and corruption and inadequacies. At the same time every day this series sought out uplifting models that could be replicated, and it sought out models which contradicted the general notion that the poor cannot learn, the notion that poor neighborhoods cannot have good schools. There were examples all over New York City which prove this not to be true.

But in the end the Daily News pinpoints the fact that the school system is in great trouble. In terms of service to the majority of the children attending the schools of New York City, we are failing at a faster and faster rate, and it is likely that school systems in Los Angeles, Philadelphia, a number of big cities, are failing in the same way, at the same rate, for the same reason, and that is why I want to bring to your attention what this Daily News series has pointed out, and how the implications reach across the Nation.

Reading from their own editorial page, ''This week in a Daily News special report entitled Save Our Schools, you have been reading about the meltdown of the New York City educational system. As documented in chilling detail in more than 20 articles, the crisis has reached critical mass.''

Now, Daily News is not a radical newspaper. They very seldom use extreme words like ''meltdown.'' When they say ''meltdown,'' you have to consider that they have been shocked, and this is truly a serious situation.

''This laboratory of failure, this culture of catastrophe, puts 1.1 million school children at risk. It must end. That is why the Daily News has launched a campaign, no, a crusade, to rescue what was once a world-class system that created opportunities for millions.''

I think it is important to point out that the New York City school system was once considered a world-class system. It gave a lie to the notion that any big system, any bureaucratic system is automatically a wasteful system and a nonproductive system. The New York City school system produced the young people who went on to city colleges and who created a record of achievement and higher education in science and you name it; every scholarly endeavor that you can mention were the products of the New York City school system and of New York City publicly financed colleges. At one point City University had the highest percentage of Ph.D.s of any college in the Nation.

This was a system that was once a world-class system, and I submit it was a world-class system at a time when the people who were in charge of the system also had children who were attending the schools in the system; when the power, the power to make the system work was in the hands of the people whose children were attending the system. We have lost the kind of concerns and the kind of scrutiny and the kind of effective application of resources because of the fact that the people who are in charge and the people whose children are in the schools are not the same.

Continuing with the statement in the Daily News, ''How abysmal is the situation? Sixty percent of the students in public elementary and middle schools cannot read at grade level. A third are functionally illiterate, and 70 percent lack proficiency in math. Nearly 50 percent finish high school in 4 years. In the original class of 2000, 19.5 percent dropped out before graduation, a 12 percent leap from the class of 1999.'' This percentage who dropped out before graduation represents a 12 percent change from the class of 1999.

A mere 35 percent of the kids take the Scholastic Assessment Test required for college. A mere 35 percent take the SAT, versus 73 percent of the rest of the children in New York State who take that same test. Only a broken system produces such a rock bottom number. It is appalling.

Just 44 percent of teachers hired last year for city schools had credentials, down from 1999. Meanwhile, 16 percent of all teachers are uncertified, the most in a decade.

Ten percent of parents did not bother to pick up their kids' report card. Fifteen percent do not know what grade their child is in, and the PTA at one school has only two members.

Oh, yes, they say in passing, ''The buildings are falling down. Eighty-five percent of schools need major repairs.'' I am going to repeat that paragraph because herein lies the story of denial of opportunities to learn.

How can the children of the New York City school system score well on the series of tests that are being proposed? The Leave No Child Behind legislation pushed by the White House and now passed by both Houses has a testing regimen which starts in the third grade. From the third to the eighth grade, children will be tested. If you test children who are going to school under these conditions, I can tell you now without looking at the tests, most of them will fail.

Here are the conditions that the school, the children in the schools of New York will be facing as they take the tests. I am repeating this paragraph because herein is the story of the denial of opportunity to learn by the children in the schools of New York.

□ 1900

''Consider more numbers: Just 44 percent of teachers hired last year for city schools had State credentials, down from 59 percent in 1999.''

If you talk about meltdown, you are in a terrible situation at 44 percent hired last year, or only 44 percent have State credentials, are certified. The fact that that is increasing at a rapid rate lets you know that you are in a much worse situation than just the

fact that only 44 percent hired were certified. That is down from 59 percent the previous year. If you look at the year before that, I am sure that we had many more who were certified. We are rapidly losing all the qualified teachers needed in schools where the best teaching is needed.

''Meanwhile, 16 percent of all teachers are uncertified, the most in a decade. As for parents, 10 percent didn't bother to pick up their kids' report cards. And 85 percent of schools need major repairs.''

What they do not tell you is that of this 85 percent, quite a number of these schools are 100 years old and should have been replaced a long time ago.

There are honeycomb success stories among the failures. They give examples of public schools that are doing a great job.

Continuing to read from the Daily News editorial statement of June 22:

''Unfortunately, such efforts are but seeds of real reform. To truly transform education, activist moms and dads must team up with better trained teachers and with principals who don't double as building managers. Schools must no longer be fettered by the United Federation of Teachers' crippling work rules and its lifetime protection program for inept instructors. Finally, the Board of Education must be abolished so that accountability—and mayoral control—can reclaim the system.

''Those 1.1 million kids deserve a genuine chance to become beacons for the city's future, a chance they will have only if New Yorkers unite to save our schools.''

I disagree with the remedies. The New York Daily News set of articles clearly states the problem and is to be applauded for that. It leaps to conclusions that have no basis in fact or experience as to remedies. To abolish the board of education is to throw away any opportunity for this generation of New York children to get an education. It would take more than a generation to rebuild anything that is half as good as what you have already. The board of education obviously has serious problems at present, but most of these problems are problems which are directly related to a lack of resources, the denial of the resources.

We have just gone through a situation where a clear statement was made by a judge after months of considering a case that was brought against the State of New York in terms of its allocation of resources to the City of New York. That case sums up the need for opportunity to learn in a way which is far simpler than I could state it elsewhere. But it is important that we understand that nothing would be more beneficial to the well being and progress of the Nation than the provision of the opportunity to learn that I am talking about.

Opportunity to learn for all would mean that we understand that brainpower is the greatest need of the Nation and the world. Education for all, including the least among us, is a vital investment in the future of the Nation. Economic power, technology power, the power of cultural influence and even military power is directly dependent on our reserve of brainpower. About 2 years ago, we launched the last super high-tech aircraft carrier that we launched and the Navy admitted at that time that it was about 300 crew members short because they did not have the necessary trained personnel. There was a lack of brainpower. There was a lack of young crewmen who had the aptitude to be trained to run the high-tech equipment on the aircraft carrier.

I am saying again that New York City schools are examples of what is happening all over the country. They are frozen in time in terms of providing a basic education. They do not even do as well as they were doing 50 years ago. But here is the challenge that faces us in terms of going into the future, where the challenges are much greater and the education system needs to be equipped to do a far better job. Brainpower is the key to where this Nation is going. Unless we have a system that can educate all of the young people and guarantee that there are pools of trained personnel to draw from, then our entire society is in serious trouble. We do not just have a shortage of scientists, we do not just have a shortage of trained computer personnel, information technology personnel, we have shortages right across the board.

Half of the graduate students in our big universities are foreigners. More than half of the graduate students studying science at the highest levels are foreigners. Whether you focus on chemistry or physics or engineering, or all of the technical and scientific pursuits, more than half are foreigners, which means you have a problem in terms of theoretical and scientific know-how. When you come down to the next level of technicians, there is a great shortage. If you look at any area, whether you are talking about auto mechanics or sheet metal workers, even carpenters, there is a tremendous shortage of people who can do the ordinary jobs in our society because those jobs have become more and more complex. They need more and more skills.

I visited a sheet metal training facility in Queens more than a year ago, and I was surprised at the use of computers. They make extensive use of computers in the training of sheet metal workers. Obviously, sheet metal workers use computers a great deal. There is almost no area where the skills required, the knowledge required is not far greater now than it was 25, 50 years ago.

That is the other problem. The first problem is to have a basically sound school system that is functioning at minimum level. The bigger problem is to have a school system which is able to cope with the challenges of the 21st century. New York fails on the first rung and cannot continue to exist as a school system unless it moves rapidly to the second rung, because that is where the soul of the city lies, in the production of brainpower. To solve this brainpower crisis in the information technology industry, for example, corporations are using foreigners more and more. But we cannot use foreigners to run our aircraft carriers. We cannot use foreigners to run the armed services. We cannot use foreigners to vote intelligently for our elected leadership. The survival of our constitutional civilization is directly dependent on the pools of brainpower we develop and maintain inside the Nation.

Our complex society is doomed without adequate checks and balances. This goes far beyond the executive, judicial, and legislative units of government. The press and media, the nonprofit organizations, the private corporations, these are also vital parts of the system of checks and balances. Without constantly increasing brainpower reserves and replacements, these institutions will diminish and lose their potency in the collective decision-making process.

In other words, I pointed out the crisis in science. It is not only in the area of science but in the area of writers, in the area of social workers. Wherever you examine the need for trained people, there is a shortage; and the shortage is increasing. The police are having difficulty recruiting qualified candidates. The fire department is having difficulty recruiting qualified candidates. A more complex world demands people who are slightly better trained, and as a result we do not find them in the pools of manpower and brainpower that we have now.

We presently have a growing shortage of teachers and educated supervisors and administrators. That is the most critical shortage. This will greatly hamper any meaningful education reform. But similar shortages, as I said before, are appearing among numerous other categories of professionals.

Right now there is a great negotiation taking place in New York City in respect to teachers' salaries. It is seen as a collective-bargaining problem, and really it is far beyond a collective-bargaining problem. The salaries of New York City teachers is a major public policy issue. The kingpin of the school system is the leadership, the quality of the teachers and the principals, the assistant principals and the other personnel. If we do not get higher salaries for the people who are running that system, considering the fact that we are competing with salaries in all the surrounding suburbs and cities and towns who draw off the best personnel from New York City, then the rapidity,

the speed with which we are losing the best teachers and administrators, will greatly increase and it will be totally impossible to change the system. When you talk about meltdown, nothing will speed the meltdown of the system faster than the failure of the present negotiations to greatly increase the salaries of the teachers and the education personnel in New York City in order to allow it to keep pace with the personnel salaries in the surrounding areas.

We have pinpointed that one of the most important opportunity-to-learn standards, opportunity-to-learn factors, is the provision of qualified and trained teachers. That is number one. Without the leadership, without qualified trained teachers, without principals and administrators, the system does not go anywhere. No study and experimentation will be necessary to understand what maximum opportunity to learn means. To provide an adequate and basic elementary and secondary education, we already know what works. There is no need for a great deal of discussion and controversy. There is a need for more resources. We need the money to pay the teachers decent salaries, we need to raise the standards, raise the morale, stop the brain drain and improve in all the other opportunity-to-learn areas, like the physical facilities, the equipment, the books, et cetera.

Before we begin to search for the most suitable pedagogical approaches, we must first put in place this set of opportunity-to-learn standards. The physical environment of the class, the building, the library, the cafeteria, laboratories, all of these must be safe and conducive to learning. The first negative by-product of overcrowded classrooms and hallways is usually an exacerbated discipline problem. Constantly we hear complaints about discipline problems. There are no silver bullet solutions for discipline problems; but one thing is certain, if you have overcrowded classrooms and overcrowded schools, the hallways, the cafeteria, the auditorium, then certainly you are going to have greater discipline problems. And, of course, you cannot honestly lower the pupil-teacher ratio unless you have more classrooms.

Right now we have a situation in New York City where we cannot honestly make use of the funds that were appropriated by the efforts of the last administration. We did get some movement in terms of funds to lower the pupil-teacher ratio in each class. We got a movement in the right direction, many teachers were employed; but the honest truth is that in New York City, instead of them having a lower pupil-to-teacher ratio in the classroom, they put another teacher in a crowded classroom because there were no classrooms.

If you do not build additional classrooms, then you cannot have a lower pupil-teacher ratio in the classroom. They added a teacher to a crowded classroom which is not what the legislation was all about in the first place. We have done some creative maneuvers to get the money and use the money; but actually the benefit sought, a classroom where you had fewer pupils per teacher in order to be able to maintain greater order and give more attention to the students at a younger age, that did not happen and it is not happening in many cases.

This is a self-evident requirement, that you have trained teachers and you have trained supporting personnel. We refuse to take our children to untrained, uncertified dentists or pediatricians, so why not pay and seek the best teachers? Why should any child be subjected to the fumbling, makeshift efforts of an untrained teacher? We do not normally expect successful outcomes when unqualified staff are in charge. It is an unfortunate factor in big-city school systems that the substitute teacher, the unqualified teacher who could not pass the test, who is not regularly on the rolls, who is not paid fully and who does not get full benefits, that substitute teacher becomes the teacher that children see the most often in the worst neighborhoods. In other words, in the poorest neighborhoods where other teachers do not want to teach, it is the substitute teacher, the unqualified teacher, that is usually brought in to fill the classrooms.

In one of my sections of my district, District 23, at one point they had more than half of the teachers who were not certified, who were substitutes, teaching in the schools. This was an area where the reading scores were very low and they needed the very best teachers.

What I am attempting to explain is summarized with shocking simplicity at the end of the court order just handed down several months ago by Supreme Court Judge DeGrasse in New York State. The New York State civil judge heard the case that was brought which challenged the fact that the State of New York had been short-changing the City of New York in terms of education funds. The court case went on for almost a year, testimony was heard, and the judge finally made a decision.

□ 1915

I will read just a few excerpts from that decision. Quote, and this is Judge Leland DeGrasse, New York State Supreme Court, this court has held that a sound basic education, mandated by the education article, that is the education article of the constitution, consists of the foundational skills that students need to become productive citizens capable of civic engagement and sustaining competitive employment.

In order to ensure that public schools offer a sound basic education, the State must take steps to ensure at least the following resources which, as described in the body of this opinion, are, for the most part, currently not given to New York City public school students.

Number one, sufficient numbers of qualified teachers, principals and other personnel; two, appropriate class sizes; three, adequate and accessible school buildings with sufficient space to ensure appropriate class size and implementation of a sound curriculum; four, sufficient and up-to-date books, supplies, libraries, educational technology and laboratories; five, suitable curricula including an expanded platform of programs to help at-risk students by giving them more time on task; six, adequate resources for students with extraordinary needs; and seven, a safe, orderly environment.

Now, these items laid out by Judge Leland DeGrasse, in the opinion of the New York State Supreme Court against the State of New York, accusing the State of not supplying these items, there is an exact parallel to the opportunity-to-learn standards, which I have been discussing. These are statements in another way of what opportunity to learn means. You are not provided sufficient teachers, qualified teachers and principals. You do not have appropriate class sizes. You do not have adequate school buildings. You do not have sufficient supply of up-to-date books, libraries, educational technology and laboratories, and as a result, your curriculum is not suitable. You do not have a safe, orderly environment. All of these are stated in the court decision.

I might add that the judge gave the State of New York until the first of June, I think, to come forward with some kind of plan to respond to his decision. That has not happened.

I might also add that the Governor of New York appealed the decision of the court, and the Governor in essence stated what the lawyers had been arguing for the Governor all along, and that is that in New York City the children are too poor to learn. The poverty is the reason they cannot learn.

There is a condemnation out of which there can be no solution; that is to say, children cannot learn because they are too poor, and, therefore, we should not put resources in to try to teach children who are too poor to learn dooms the children forever. It is like condemning slaves for being illiterate, nonfunctional when they came out of slavery after having a series of laws in every confederate State which made it a crime to teach a slave to read. It is a crime to teach you to read. At the same time, of course, there was a big contradiction there because slaves were considered inferior, not quite human, and, therefore, why did they have to worry about teaching them to read? Evidently they were human enough, smart enough to learn how to

read, so much so that laws were made. In every Confederate State there was a law that said it is a crime to teach a slave to read.

Now we have a situation where a Governor of one of the most advanced States of the Union, the great Empire State of New York, is arguing that the problem of education in New York City is that the children are too poor to learn, and, therefore, do not expect the State to solve the problem by providing more resources because they are too poor to learn; more resources will not help the situation. It is a State where we spend $25,000 per year for an inmate to be kept in prison. In New York City we spend only $7,000 per year to educate each student. You can see the direction of the reasoning of the Governor. If you cannot educate them, and most of them end up in prison, they are going to cost far more later on, but I suppose there are some profits to be made in the prisons that we do not know about.

Anyway, I can think of no more confused and hopeless reasoning than for a Governor of a State to say we cannot solve the problem because the children are too poor to learn.

In the course of reforming the school finance system, a threshold task that must be performed by the State to the extent possible, the actual costs of providing a sound basic education in districts around the State has to be decided, but certainly you are going to have to ensure that every school district has resources necessary to provide opportunity for a sound, basic education. Taking into account variations in local costs and all the other things, the State should be in a position to provide what is necessary.

The New York Daily News article does not pinpoint the Governor's position, the fact that the Governor is now spending State funds to appeal the decision of the court, which called upon the Governor to provide more funding for New York City. The New York Daily News article does not finger that as one of the great reasons why we have the problem.

We have a meltdown in New York City schools. A meltdown is taking place right now, and the meltdown is primarily due not to the fact that children are too poor to learn. If that was the case, then New York City would not have produced some of the greatest scholars in our Nation.

The City College, the city universities, would not have turned out so many Ph.Ds. They are spread all over the world. Poor youngsters who came out of the ghettos of New York in the past have learned and performed well. The poverty is not the problem. The problem is that the people in charge of the system have allowed the system to degenerate and not provide the opportunities to learn that should be provided.

One great controversy raging right now is around the opportunity-to-learn standard as reflected in school construction. School construction and the provision of adequate facilities is a major part of the problem. It is highly visible, and when you provide for adequate school facilities, you make a statement about the importance that you attach to education. If you refuse to provide for adequate facilities, you are also making a statement, and the continuing refusal to provide adequate schools is a statement that the people who are in power have made over the last 10 years. The Daily News recognizes the problem, but they do not pinpoint the fact that the mayor of the city of New York has been a major problem.

The decision-making process at city hall has been a major problem in the provision of adequate school facilities. We have a problem now where it is another Catch-22. They are saying that the high cost of construction in the year 2001 is so great that we cannot go ahead to begin to remedy the problem of overcrowded schools. We have to wait. We have run into a situation where the money projected to build schools would not go as far as anticipated because the cost has gone up. Some people are proposing that we call a halt and not build any more schools, not repair any more schools because the costs are too great.

Eight years ago there was a major confrontation between the present mayor and the chancellor of schools at that time because he proposed a $7 billion capital funding program. He proposed $7 billion, and the mayor said that was unreal, and there was such a clash until they drove that chancellor out of town.

A few years later a second chancellor proposed an $11 billion capital expenditure program, and there was a clash with the mayor, who said that was unreal, and the clash became so heated until that chancellor was forced to resign.

Now we are at a point where we are finding that because of all of these delays and all of the roadblocks that have been placed in the way of the decisionmakers at the board of education in terms of going forward with a meaningful capital expenditure program and building the schools at a time when it probably would have cost less, we now have a logjam, and the prices are going up.

The cost of construction has gone up. Well, is the cost of construction really up all over the Nation? Are we in a recession? Are we going toward a recession? Has the economy not slowed down? If they want to solve the problem of school construction in New York and keep the costs from rising, can we not appeal for some Davis-Bacon unionized contractors from all over the country to come in? We have no problem if they are willing to abide by Davis-Bacon. They can come into New York City and take the contracts and go ahead and build schools there.

There are a dozen ways to solve the problem, yet there seems to be a willingness to point the finger at the board of education, at the current chancellor, and to play the kind of game that city hall has played all along; in other words, poor decision-making, incompetent decision-making, decision-making by people whose motives are questionable. After all, this is a mayor who has said that the school system, the board of education, should be blown up. The best way to get better education in New York City is to destroy the board of education. If you want to take that attitude, then it would be a contradiction for you to provide money for the board of education to build schools.

The mayor has been consistent. The question is why have the leaders of New York allowed him to be so consistent? Why have the members of the city council not challenged the mayor? We at one point had $3 billion; just 3 years ago we had $3 billion in surplus. New York City had a $3 billion surplus. Not a single penny of the surplus funds were used to repair schools or build schools or to do anything else for education, for that matter.

So we have a situation again which has clearly been delineated by the Daily News. If you live in New York City and you are interested in education, then I urge you to read the Daily News articles. If you do not live in New York City and you want to see what big cities all over America are facing, you might want to read the same series of articles. It is a magnificent series of articles that pinpoint all of the things that have gone wrong and can go wrong and what the consequences are.

Sixty percent of elementary and secondary middle school students cannot read at grade level. That is quite an indictment. Seventy percent are not proficient in math. Thirteen percent of this year's high school seniors, that is about 4,100 students, failed the math Regents test. More than 13,000 students from the class of 2000 dropped out between the 9th and the 12th grades. That is 19.5 percent of the class. Between 1996 and 1999, 30 percent of New York City students took Scholastic Aptitude Tests, a standardized exam for admission to most colleges. Seventy-three percent passed statewide and scored 40 to 50 points higher than the New York City students.

Sixty percent of elementary schools and 67 percent of high schools are overcrowded. Sixty percent of elementary schools and 67 percent of high schools are overcrowded, and the board of education's master plan for the year 2003 concedes that 85 percent of the schools need major repairs. Deterioration is occurring at a rate faster than we can

save the systems, the board documents revealed.

I think that that physical deterioration is the best visible manifestation of what is happening in general. When you talk about meltdown, look at the physical deterioration. I quote: Deterioration in the actual school buildings is occurring at a rate faster than we can save systems, the board documents reveal.

In recent years about half of public school students have completed high school in 4 years; 9 percent have graduated later, by the age of 21; and the rest have been lost completely. Is this an example, a model for where we dare go in terms of education in America?

I am using the New York City school system because it is an example of where our big cities are. Now, there was a lot of praise for Chicago, and Chicago was being used as some kind of magic model for the improvement of big-city school systems. Now, I understand the tests have shown that Chicago is again in serious trouble, that there has been a lot of hype and a lot of public relations, but underneath the improvements have been minimal, and the improvements have been minimal because, again, the opportunity-to-learn standards have not been addressed sufficiently.

They have not provided the kinds of quality facilities, trained teachers, adequate supplies and equipment, laboratories for science, library books and libraries. It is so simple, the opportunity-to-learn standards, but it is the area where nobody wants to engage in a discussion.

Yes, we have two new pieces of legislation, one in the Senate, one in the House, which are professing to be the last word on education reform. A lot of people are already applauding the legislation before it is finalized, and before the President signs it. It is not the final word, I hope. If that is the final word, we are in serious trouble.

□ 1930

The final word has to be dictated by the insistence of the American people out there, who have made education the number one priority for the last 5 or 6 years. When you ask the question, what should Federal dollars be used for, where is the most Federal assistance needed, education continues to score right up there with other concerns like crime and Medicare and Medicaid. Usually education is ahead of them all.

So the public is way ahead of the leadership. We must run to catch up with the leadership. What is happening right now gives us an opportunity to do that. As long as the bill is being held, as long as we do not go to conference, as long as we do not have a final signature by the President, then there is room for negotiation, as long as we are dealing with the appropriation process and it is understood that the glaring inadequacy of the present education legislation is in the area of resources, there is not enough money being guaranteed.

Oh, yes, the money is authorized. There is a reasonable amount authorized. If you are going to double the title I funding from the present amount to $17.2 billion in 5 years, that is a great increase. That is an increase worth voting for. But at the same time the authorizing legislation says we can do that, the appropriation and budget process says there is no money.

I started by saying we have had two great legislative developments up to now in this session of Congress. One was the passage of the tax legislation, and the other was the passage of education legislation by both Houses, although the education legislation is not complete.

They do relate to each other. The passage of the tax legislation has put us in a situation where, despite the fact we have authorized more money for education, and the other body, the Senate bill authorizes even more than the House bill, we cannot actually get the money and the resources unless there is a change in the appropriation process.

Somehow between now and the end of this session, more money has to be found in that budget; some new device has to be developed to increase the revenue; some changes have to be made, decreases in expenditures and other areas that are less important. Somehow we have to continue to press forward and make the case that brain power is the number one need for this Nation at this time. Brain power and the pools of people produced to qualify to run a more and more complex society are at the heart of where we are going. Nothing else is going to move forward unless we have the appropriate brain power. Therefore, brain power should be number one.

If budget cuts have to be made somewhere else, we should make those budget cuts, or if we have to find some new source of revenue dedicated to education, then that has to be the case. We must save our schools, not only in New York City, from a growing meltdown; but we must understand that the same process, the meltdown process, is occurring elsewhere, and only Federal funds can be utilized to stop it.

HMO REFORM

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of January 3, 2001, the gentleman from Iowa (Mr. GANSKE) is recognized for 60 minutes as the designee of the majority leader.

Mr. GANSKE. Mr. Speaker, I especially want to thank you for the time that you are spending in the Chair tonight, as you have many evenings with your spare time. The Members of this House of Representatives who come to the floor to give Special Orders are especially appreciative as, over the years, other Members have volunteered their time to sit in the Chair so that we could do our Special Orders.

This is the beginning of our July 4th recess, and I will try to be somewhat briefer than the hour time that I am allotted for this.

Well, we have had, Mr. Speaker, a great debate going on in the Senate this week on the Patients' Bill of Rights; and I have been watching this with great interest, because for the past 5 years I have been working on this issue, and I have been coming to the floor frequently, just about every week, in order to give a Special Order talk on the status of legislation to help protect patients from abuses by HMOs.

I am looking forward to the day when we pass a strong Patients' Bill of Rights piece of legislation on this floor to go along with what I think will be a strong Patients' Bill of Rights coming out of the Senate, that we marry those two bills together, that we add some important access provisions, such as an expansion of medical savings accounts, tax deductibility for the self-employed, and we move that down to the President's desk.

I strongly encourage the President to sign that, because there have been some significant compromises over the past few years on this legislation that I believe meet the President's principles, and yet retains principles that he enunciated during the Presidential campaign, such as allowing for important State laws on patient protection to continue to function, laws like those in Texas, which appear to be working pretty well.

Mr. Speaker, why are we continuing to talk about this? Well, we have had gridlock here in Washington for several years on this; and it has been a shame, because every day the HMOs make millions and millions of decisions that can significantly affect the well being of the patients they are supposed to be serving.

Remember a few years ago, there was a movie, ''As Good as It Gets.'' It had Helen Hunt, who had a child with asthma, talking to a friend, Jack Nicholson, in the movie; and her little boy was being denied needed treatment for his asthma, which prompted Ms. Hunt to run a string of expletives together about that HMO. And I saw something I never saw happen before in a movie theater or seen since: I saw people stand up and clap in agreement with Ms. Hunt on that.

Then we saw a few years ago a large number of jokes and cartoons about HMOs. You do not see it so much any more because, you know what? Everybody knows that this is a problem. In order for something to be humorous, there needs to be some element of surprise. But it is not surprising anymore

that people have problems. You talk to your friends, family members, colleagues, and practically everyone can come up with a story about how an HMO has inappropriately denied treatment to a patient.

Remember the problem that we had a few years ago when one of the HMOs said, well, you know what? We do not think you need to stay in the hospital if you deliver a baby. Our plan guidelines say outpatient deliveries.

So you had this type of cartoon. The maternity hospital, drive-through window: ''Now only 6-minute stays for new moms.'' The person at the window saying, ''Congratulations. Would you like fries with that,'' as the mom holds a crying baby, and she looks more than a little frazzled.

Well, it was not so funny when you started to see headlines on major newspapers around the country, like this one from the New York Post which said ''What his parents didn't know about HMOs may have killed this baby.'' Or this headline from the New York Post that says ''HMO's cruel rules leave her dying for the doc she needs.''

Some of these cartoons were pretty hard hitting, and I would say the humor was black humor at a minimum. Here was a cartoon about HMOs that appeared a couple of years ago: ''Cuddly-care HMO. How can I help you?'' This is an operator at the end of one of those 1–800 numbers. She is repeating what she is hearing on the telephone, and she says, ''Oh, you are at the emergency room and your husband needs approval for treatment.''

Then she repeats what the person is saying. ''He is gasping, writhing, eyes rolled back in his head? That doesn't sound all that serious to me.''

Over on there it says, ''Clutching his throat, turning purple? Um-hum.''

Then she says, ''Well, do you have an inhaler?''

Then she says, ''He is dead?''

And then she says, ''Well, then he certainly doesn't need emergency treatment, does he?''

And finally the HMO reviewer says, ''Gee, people are always trying to rip us off.''

Well, that was not too funny to this young lady. She fell off a 40-foot cliff about 60 miles west of Washington, D.C. She broke her pelvis, her arm and had a concussion; nearly was dead. Fortunately, her boyfriend had a cellular phone. He phoned in the helicopter. They loaded her up, got her to the hospital, she was admitted through the emergency room, in the ICU on intravenous narcotics, and she got better.

But then do you know what the HMO did? They would not pay her bill. They said that she had not phoned ahead for prior authorization.

Does that strike you as a little funny? How was she supposed to know she was going to fall off a cliff and break her leg and have a concussion? Was she supposed to be able to read the tea leaves?

Oh, and this was an issue. This was one of the first issues we talked about on HMOs. Back in 1995 I had a bill called the Patient Right to Know Act, because it became known that HMOs were requiring doctors to phone them in order to get permission to tell the patient about all of their medical treatments that might be possible. So you would have a situation, for instance, where a woman comes in to see a doctor; she has a lump in her breast. Before the doctor tells her her three options, he says, ''Oh, excuse me,'' goes out in the hallway, gets on the phone and says, ''HMO, can I tell this lady all about her treatment options?''

So here we have a doctor saying, ''Your best option is cremation; $359, fully covered.'' And the patient is saying, ''This is one of those HMO gag rules, right?''

That HMO gag rule was not so funny to this woman. Her HMO tried to gag the doctors treating her. She needed treatment for breast cancer. She did not get it, and she died. And, do you know what? Under the current Federal law, if you receive your insurance from your employer and the HMO makes a decision like that, under Federal law, current Federal law, they are liable for nothing except the cost of care denied. And if the patient is dead, then they are not responsible for anything. Now this little girl and boy and the woman's husband, they do not have their mom, because of what that HMO did.

Here is another cartoon. The doctor is taking care of a patient on the operating table. The doctor says ''scalpel.'' The HMO bean counter says ''pocket knife.'' The doctor says ''suture.'' The HMO bean counter says ''band-aid.'' The doctor says, ''Let's get him to intensive care.'' The HMO bean counter says, ''Call a cab.''

Let me tell you about a real case that was sort of a call-a-cab response. Down in Texas, after they passed the patient protection bill down in Texas, there was a fellow named Mr. Palosika. He was suicidal. He was in the hospital. His doctor thought he needed to stay in the hospital because, if he left, he might commit suicide. But the HMO said, no, we do not think he needs to stay in the hospital, and we are not going to pay for it. If he wants to stay, fine. The family can pay for it themselves.

Well, when an HMO says that to most families, they do not have the money to pay for it up front themselves, so they just took him home.

□ 1945

That night, Mr. Palosika drank half a gallon of antifreeze and committed suicide.

Now, under Federal law, that HMO was supposed to, if they disagreed with the treating doctor's advice, they were supposed to go to an expedited, independent review panel, but they did not do that, they just ignored the law. And that is why it is very important when we are dealing with patient protection legislation that we have a strong enforcement mechanism; not to create new lawsuits, but to prevent those lawsuits by making sure that the HMOs know that they will be responsible at the end of the day so they do not make decisions or so that they do not follow the rules, or, I should say, in order to ensure that they do follow the rules.

Here is another one of those cartoons. This is the HMO claims department. The claims reviewer is saying, ''No, we don't authorize that specialist; no, we don't cover that operation; no, we don't pay for that medication,'' and then apparently somebody says something to the operator, and she says, ''No, we don't consider this assisted suicide.''

Mr. Speaker, I hope I do not have to talk about this case much longer. I hope we really do pass a strong Patients' Bill of Rights soon, the Ganske-Dingell bill, on this floor. This is a little boy that I know. He is now about 8 years old, but when he was 6 months old, he had a fever of about 104, and he was sick one night, and his mom phoned the HMO, a 1–800 number, probably thousands of miles away, and said, my baby is sick, we need to go to the emergency room. And the medical reviewer said, well, under our contract, I will only authorize you to take little James to this one emergency room. That is all we have a contract with. Mom and Dad lived way on the outside of Atlanta, Georgia. Mom said, well, where is it? This voice over the phone said, I don't know, find a map. Made a medical decision, medical judgment, that reviewer did, that he was healthy enough to withstand a very long drive through Atlanta and bypass three hospitals with emergency rooms.

So Mom and Dad wrap him up. It is the middle of the night. They start their trek, they pass those emergency rooms where they could have stopped if they had authorization, but they were not health care professionals, they did not know how sick little James was, but he then suffered a cardiac arrest. Fortunately, they were able to keep him going until they pulled into the emergency room. Mom leaped out of the car screaming, save my baby, save my baby. A nurse ran out. She started an IV, they started mouth-to-mouth resuscitation, they gave him medicines, they saved his life, but they did not save all of this little boy. Because of that cardiac arrest, he ended up with gangrene in both hands and both feet, and, consequently, both hands and both feet had to be amputated.

Under current Federal law, an employer health plan that makes that kind of medical judgment that results in that kind of injury to this patient is

liable for nothing except the cost of his amputations.

I will tell my colleagues something. Once in a while I read an article, an editorial in a newspaper, and I hear opponents to our legislation saying, oh, those are just anecdotes. Those are just anecdotes. That girl that fell off the cliff, that was just an anecdote. The young mother who died because she did not get the care from the HMO, that is just an anecdote. A little boy who loses both hands and both feet, that is just an anecdote.

Mr. Speaker, do you know what I say to those people? I say, you know what? If this little anecdote had a finger, and if you pricked it, it would bleed. I say, this anecdote has to pull his leg prostheses with his arm stumps every day. This anecdote needs help putting on both bilateral prostheses. This anecdote will never be able to touch the face of the woman that he loves with his hand. He will never be able to play basketball. Now, he is a pretty well-adjusted kid, considering everything. He is a great kid. But I tell my colleagues, I want those people who write those op-ed pieces to meet this little anecdote and look him in the eye and tell him that we do not need a Patients' Bill of Rights.

I will tell my colleagues this: There are not just a few anecdotes around the country. I get phone calls and letters from people all over the country. Just recently in Des Moines, Iowa, a woman came up to me and she said, I tell you what. I am fed up with our HMO. I have breast cancer. I have been battling this for a while. The treatments have made me worn out. But my doctor told me that I needed a test to see if the cancer had come back, and the HMO would not authorize it. Other doctors said the same thing, that I needed the test. It did not matter. The HMO would not authorize it. Finally, after a long fight, they authorized it, and then the day I was supposed to get it, they said no.

And she said, Congressman, I went to my husband and I said to him, you know, Bill, I am going to ask you to do something I have never asked you to do for me before. That HMO has worn me out. I cannot fight them anymore. You are going to have to carry this for me. You are going to have to fight that HMO.

Mr. Speaker, there is a real need to pass this. People pay a lot of money and their employers contribute a lot of money for their health care. They work a lot of hours to earn that health care. When they finally get sick, it ought to mean something. They ought to be treated with justice and human compassion and not by green eyeshades looking at the bottom line and coming up with some arbitrary definition of medical necessity.

Mr. Speaker, under this Federal law I am talking about that passed 25 years ago, an employer health plan can define medical necessity as anything they want to. Some health plans have defined medical necessity as the cheapest, least expensive care, quote/unquote. Well, before coming to Congress, I was a reconstructive surgeon. I took care of children with cleft lips and palates. More than 50 percent of the surgeons in this country that do that kind of work in the last several years have had cases denied for kids with cleft lips and palates by the HMO saying, oh, that is not medically necessary. And under Federal law, they can define it any way they want.

That is why they had a big debate on this yesterday in the Senate, and they have managed to preserve language that says, if there is a dispute, an independent panel will make that decision and not be bound by the plan's arbitrary and unfair guidelines, so that if there is a denial of care, you get an honest-to-God chance that you will get the treatment you need.

I commend the Senators who voted to preserve that very, very important issue of letting an independent panel determine medical necessity and not be bound by a plan's guidelines. That does not mean that our law says, our bill says that employers cannot set up their own benefits package. We are very clear on that. We do not change that for ERISA at all. If an employer wants to purchase a plan where the plan says explicitly in the contract language, we do not provide heart-lung transplants, that is fine. It is not what I would recommend, but they can do that, and we do not change that. If a patient came along and needed that, then they would have to come up with that financing themselves because it has been made explicitly clear. But if it has not been made clear that that is an explicit exclusion, and if the patient does need that and believe that they would get that under that type of agreement, then they should, they should.

We say in our bill, the Ganske-Dingell bill, the Bipartisan Patient Protection Act of 2001, we say that businesses are protected from liability. We have a standard in our bill that says, businesses will not be liable unless they enter into direct participation in the HMO's decision that would result in injury. That is a standard that many of my Republican colleagues agreed with 2 years ago, and we adopted it.

I had a good friend who is a businessman from Des Moines, Iowa, phone me today, and he wanted to know whether he would be liable under our bill, and I said, how do you provide your health insurance for your employees? He said, well, we hire BlueCross BlueShield. We take one of their plans or another plan. I said, do you ever get involved in BlueCross BlueShield's decisions? He said, oh, no. Oh, no. That is a matter of personal privacy for our employees. We do not want to know what is happening to their personal lives, and, quite frankly, they do not want us to know what is going on, and we do not want to know, if only for the reason that maybe we would have an employee at some time that is not performing up to par, and we might have to let that employee go, and we do not want that employee coming in and saying, well, you are just letting me go because you found out that I have diabetes or that I had to see a psychiatrist.

Under our bill, the Ganske-Dingell bill, employers are protected from liability, unless, unless they directly participate. Furthermore, there has been additional protective language now adopted on the Senate side on this issue, and we think that that is a positive. We just want to make sure, not that there will be a lawsuit at the end of the day, but that if there is a dispute on care where the HMO says no, but the patient's doctors say yes, that there is a mechanism for resolving that dispute before anyone is injured, if necessary, going to an independent panel whose decision would be binding on the health plan, an independent panel where the decision would be binding on the health plan.

In that circumstance, in the Ganske-Dingell bill, you know what? We give total punitive damages relief to the health plan. We say, if this dispute goes to an independent panel, and a health plan follows the decision, then they cannot be held liable at all for punitive damages. That has been one of the major concerns, large punitive damage awards by the business community.

Some people attack our bill by saying, oh, it is going to increase the costs for health insurance premiums. We hear that a lot in the debate that has been going on in the Senate. My answer to that is that the Congressional Budget Office has looked at our bill, the McCain-Edwards bill is the companion bill that is being debated in the Senate, they have looked at our bill and they say that the total cost would be 4 percent increase in premiums over 5 years, so less than 1 percent per year. The alternative, Frist-Breaux bill, the GOP bill in the Senate, would increase premiums by about 3 percent over the same period of time. But the provision on the liability would result in a total increase in premiums of only .8 percent over 5 years. That is less than two-tenths of a percent. The analysis of that would show in practical terms that the cost of our bill would be about the cost of a Big Mac meal per month per employee.

Mr. Speaker, the surveys around the country show that people think that that would be well worth it to know that they would be treated fairly.

Now, just this week there has been a big roll-out of an opposition bill to the Ganske-Dingell bill. It is called the Fletcher bill, the Fletcher-Thomas bill.

□ 2000

It is called the Fletcher bill, the Fletcher-Thomas bill. As a doctor, I know that you do not do a complete physical exam without examining the body under the clothing. So there were a lot of good words said by the opponents to our bill about the Fletcher bill, but I have looked at the body of that Fletcher bill.

I will tell my colleagues something, it is not pretty, except to the HMOs. When the Fletcher bill is stripped of its spin, the bones, and the sinews look like the old HMO protection bills that the opponents to real patient protection have tried to confuse the public with for several years.

For example, in the Fletcher bill, there are significant constraints on the independence of the medical reviewer. The standards of review would actually codify negligent health plan practices. It would make them unreviewable.

The Fletcher bill's designated decisionmaker language could be gamed by the HMO. They are working on designated decisionmaker language on the Senate side right now. Senator SNOWE is working on that, and there is a way to write that language that is fine, it adds language that is protective for employers, but at the same time prevents that language from being used to deny patients the care they need.

Mr. Speaker, I am very pleased to see progress being made on that on the Senate side. The Fletcher bill, despite the plan's sponsor's contentions, reverses State law. It effectively federalizes State law by saying that the only allowance for State court is if an HMO does not comply with the review panel, which under the Fletcher bill, the HMO is able to stack in its own favor. Those are just a few of the diseases on the Fletcher bill.

I advise my fellow Republican House Members to become aware of being infected with the Fletcher bill. The real cure is the Ganske-Dingell bill.

Here are some statements from my great colleague, the gentleman from Georgia (Mr. NORWOOD), who has worked with me and the gentleman from Michigan (Mr. DINGELL) hand in hand on this for years.

Here is what the gentleman from Georgia (Mr. NORWOOD), a very conservative Republican, says about the Fletcher bill. He says a patient could suffer injury or death from improperly denied care and still be blocked from a just court remedy with the Fletcher bill.

Here is what the gentleman from Georgia (Mr. NORWOOD) says about the Fletcher bill. The design of this latest imposter bill is identical to previous attempts to derail patients' rights, create a technical right to sue an HMO with conditions that will disqualify the majority of cases quote unquote.

The gentleman from Georgia goes on to say the HMO chooses the external appeals panel, which then determines whether the patient can go to court and the patient has no right of appeal.

This alone is an insurmountable hurdle. It is just the tip of the iceberg. This bill, speaking about the Fletcher bill, imposes the responsibility of allowing a choice of the doctor on the employer instead of the HMO, and then it disqualifies the majority of employees from having the right to begin with. It contains nothing on adding prescription drug reform.

The list goes on and on so far, in fact, that patients would be better off with no bill than with the Fletcher bill, quote, unquote.

Mr. Speaker, my friend, the gentleman from Georgia, goes on in his press release and says the Fletcher bill further proposes that all suits over improperly denied care be removed to Federal court, with the exception of cases in which HMOs violate Federal law by refusing to comply with legally binding decisions of medical review panels.

If the injury or death of a patient occurred prior to the ruling or through the delay imposed by the ruling, the patient loses their legal rights under the Fletcher bill, even their current limited right to sue under State law gained through the recent fifth court decision, upholding a portion of the liability provisions in the Texas patient protection act.

The gentleman from Georgia continues in his press release, the new bill would accordingly preempt, preempt patient laws in Texas, Georgia, Arizona, California, Louisiana, Maine, Missouri, New Mexico, Oklahoma, Oregon, Washington, and West Virginia. Let me repeat that. My friend, the gentleman from Georgia, says the Fletcher bill would preempt patient protection laws in Texas, Georgia, Arizona, California, Louisiana, Maine, Missouri, New Mexico, Oklahoma, Oregon, Washington, and West Virginia.

Let us talk a little bit about the comparison of the Fletcher bill to the Ganske-Dingell-Norwood bill. Fletcher claims the plans face unlimited punitive damages in State court and $5 million punitive damages in Federal court, regardless of compliance with review process under the Ganske-Dingell bill.

Here is the fact. Under my bill, State level punitive damages awards are prohibited entirely if the plan follows the external appeals process. In addition, 33 States currently cap punitive and noneconomic damages. The law that would be in effect would be the law in those States.

Punitive damages are banned entirely in Federal court cases while $5 million in civil penalties are available in Federal court if the plan is proven by clear and convincing evidence to have acted in bad faith with flagrant disregard for the rights of the patients. That is what is in the Ganske-Dingell-Norwood bill.

Mr. Speaker, the opponents to our bill, the gentleman from Kentucky (Mr. FLETCHER) here, claims that our bill allows lawsuits, not only under ERISA, but also COBRA or HIPPA while the original Norwood-Dingell bill we debated a few years ago allowed ERISA cases only.

Here is the fact. The Ganske bill removes contractual disputes to Federal court. Why do we do that?

Number one, the Supreme Court has already said that is what should be done. We do it to preserve the ability of the Employee Retirement Income Security Acts uniform contract benefits. Our inclusion does not produce any additional causes of action under Ganske-Dingell. It does protect the ability of plans and employers to offer uniform health benefit plans Nationwide.

Let me repeat that. Our bill is not a bill that would prevent an employer who works in many States from devising his own uniform benefits health plan. That is the fact. Fletcher claims that the Ganske-Dingell-Norwood bill would allow patients to sue in both Federal and State courts for the same injury; that is not correct. Our bill, the Ganske-Dingell bill, assigns contract disputes to Federal court, medical disputes to State court, patients must specify the grounds of the dispute when they file. Under standard court procedure, suits cannot be filed in both courts over the same grounds.

Here is what the gentleman from Georgia (Mr. NORWOOD) said. The Fletcher bill appears designed for one goal, the confusion of the public and of Republican Members who want to vote for real patient protections.

The gentleman from Georgia (Mr. NORWOOD) goes on and says any Member who supports this package, i.e., the Fletcher bill, does so for the exclusive benefit of the HMO lobby, quote, unquote.

Let me give you five quick comparisons between the Ganske-Dingell bill and the Fletcher bill. Number one, the Ganske-Dingell bill enables every American to choose their own doctor. The Fletcher bill does not give Americans the right to choose the doctor and puts the requirement that employees get an option to choose their own doctor on the employer.

Number two, the Ganske-Dingell bill ensures a fair review process. The Fletcher bill allows health plans to choose the reviewer at external review.

Number three, the Fletcher bill forces the patient to get approval from an external reviewer before they can seek damages for injury in court. The Ganske-Dingell bill says that a reviewer's decision must be considered as evidence, but does not create an absolute bar from damages.

Number four, the Fletcher bill will preempt 12 State laws that have been passed that allows HMOs to be held liable in State courts. The Ganske-Dingell bill protects those State laws, and

that is exactly one of the principles that President Bush said was essential on HMO reform during the campaign.

Number five, the Ganske-Dingell bill allows cases regarding medical decisions to be heard in State courts. The Fletcher bill allows patients to go to State court when a plan does not follow external review and erroneously causes a medical decision. We call that breaking the law.

Further, the Fletcher bill allows the patient to forum shop, the Fletcher bill allows the patient to forum shop between Federal and State court, not the Ganske-Dingell bill.

These are some of the important differences that we are talking about between the Ganske-Dingell bill and the Fletcher bill.

That is why over 500 health groups, consumer groups, professional groups have endorsed the Ganske-Dingell bill and very few have said much about the Fletcher bill, other than that in some cases, in some parts of the language, maybe it is okay. But if you look at the overall bill, the real patient protection bill is the Ganske-Dingell bill.

Mr. Speaker, I believe, we will see this in large part passed with the McCain-Edwards-Kennedy bill, which is the companion bill to our bill. I think in large part, it will pass in the Senate. I think with a pretty big vote.

Mr. Speaker, I applaud the hard work of the Senators who have worked on that and have shown a real concern for patient protections. I believe that will give us a big boost as we move into debate here on the House floor.

I am appreciative of the work that Senators like MIKE DEWINE and OLYMPIA SNOWE, LINCOLN CHAFEE, and others, who have put into this bipartisan bill as the Senate debate has moved forward. Those changes, as far as I have seen so far, look very acceptable to the gentleman from Georgia (Mr. NORWOOD) and myself and the gentleman from Michigan (Mr. DINGELL).

In the Senate, it would have been nice if they had added the expansion of medical savings accounts and the 100 percent deductibility for the self-insured. That is in our House bill, but under the rules in the Constitution, those types of provisions have to originate in the House so they did not debate those or pass those; but I believe they have wide bipartisan support.

Mr. Speaker, I think it showed that the Democrats were willing to move to a compromise on this bill. It is no secret, a lot of Democratic Members are not real keen on medical savings accounts, but under the Ganske-Dingell bill we expand those medical savings accounts. That is part of the compromised process. That is how you get things done here in Washington.

I will tell you what, a purely partisan vote in this House will not pass. The Fletcher bill is a partisan bill. There is one Democrat that supports it, maybe two, but what we have is a real core of Republicans who have been stalwarts for patient protection, who have withstood the blows of the $150 million campaign by the HMOs in this country trying to beat them down.

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They have shown independence and courage, and I salute them. I look forward to this debate when it comes to the House floor after the July 4th recess.

I know that the gentleman from Georgia (Mr. NORWOOD) is going to go off his diet and will eat a little bit of red meat steak before we hit the floor. I am looking forward to working with the gentleman from Michigan (Mr. DINGELL) as we work on this bill here on the floor.

I am convinced that, if the Members will truly look at the bills, look at the bones and the sinews and the muscles, not just the clothing and the nice words, they will see that there is a significant difference. They should listen to the American Medical Association, and they should look at all the other groups that have looked at these bills and have said in very strong words the real patient protection bill, the bill that will help prevent situations like happened to this poor little boy is the Ganske-Dingell bill.

I ask my colleagues over the July 4th recess to examine their consciences, to talk to some of the patients and the health care advocates and the health care professionals that have to deal with HMOs that make those types of arbitrary decisions that result in problems for patients.

Talk to them over the July 4th recess. Listen to them. They represent an awful lot of people in my colleagues' districts. I believe that if my colleagues do, they will come to the conclusion that it is time to get this off the congressional calendar. It is time to join the Senate, to pass a bipartisan and a bicameral bill.

Do not let it get hung up in committee, in a conference committee. Send it to the President's desk. I would love nothing better than for the President to look at the changes that we have done in the Senate debate and come to the conclusion that this bill, as I truly think it does, meets his principles and that he will sign it. That would be a very bright day for millions and millions of Americans.

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. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mrs. MORELLA) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, today.

ADJOURNMENT TO TUESDAY, JULY 10, 2001

Mr. GANSKE. Mr. Speaker, pursuant to House Concurrent Resolution 176, I move that the House do now adjourn.

The SPEAKER pro tempore. Pursuant to House Concurrent Resolution 176 of the 107th Congress, the House stands adjourned until 2 p.m. on Tuesday, July 10, 2001.

Thereupon (at 8 o'clock and 19 minutes p.m.), pursuant to House Concurrent Resolution 176, the House adjourned until Tuesday, July 10, 2001, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2719. A communication from the President of the United States, transmitting requests for Fiscal Year 2002 budget amendments for the Department of Defense; (H. Doc. No. 107–92); to the Committee on Appropriations and ordered to be printed.

2720. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Fiduciary Activities of National Banks [Docket No. 01–14] (RIN: 1557–AB79) received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2721. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the Office's final rule—Investment Securities; Bank Activities and Operations; Leasing [Docket No. 01–13] (RIN: 1557–AB94) received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2722. A letter from the Deputy Assistant Secretary for Policy, Planning and Innovation, Department of Education, transmitting Final Regulations—Federal Work Study Programs, Federal Supplemental Educational Opportunity Grant Program, and Special Leveraging Educational Assistance Partenership Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2723. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [OPPTS–00310; FRL–6771–7] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2724. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval of section 112(l) Authority for Hazardous Air Pollutants; Chemical Accident Prevention Provisions; Risk

Management Plans; New Jersey Department of Environmental Protection [FRL–6996–7] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2725. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; New Source Review Revision [NH018–01–7156a; A–1–FRL–6999–6] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2726. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits—received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2727. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2728. A letter from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2729. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2730. A letter from the Inspector General, Federal Housing Finance Board, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2000 through March 31, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2731. A letter from the Inspector General, National Science Board, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2000 through March 31, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2732. A letter from the Acting Director, Office of Personnel Management, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2733. A letter from the Acting Director, Office of Personnel Management, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2734. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Disclosure and Amendment of Records Pertaining to Individuals Under the Privacy Act—received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

2735. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 010112013–1013–01; I.D. 060801A] received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2736. A letter from the Assistant Attorney General, Department of Justice, transmitting the 2000 Annual Report of the Office of the Police Corps and Law Enforcement Education; to the Committee on the Judiciary.

2737. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—VISAS: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Application for Nonimmigrant Visa: XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah, 2002—received June 27,2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2738. A letter from the Attorney for National Council on Radiation Protection and Measurements, LeBoeuf, Lamb, Greene and MacRae, L.L.P., transmitting the 2000 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to 36 U.S.C. 4514; to the Committee on the Judiciary.

2739. A letter from the Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting the Department's final rule—Diamond Mountain District Viticultural Area (99R–223P) [T.D. ATF–456; Re: Notice No. 882] (RIN: 1512–AA07) received June 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2740. A letter from the Chief, Regulations Branch, Customs Service, Department of the Treasury, transmitting the Department's final rule—Time Limitation for Requesting Refunds of Harbor Maintenance Fees [T.D. 01–46] (RIN: 1515–AC64) received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2741. A letter from the Chief, Regulations Division, Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury, transmitting the Department's final rule—Recodification of Regulations on Tobacco Products and Cigarette Papers and Tubes [T.D. ATF–457] (RIN: 1512–AC41) received June 28, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2742. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, first-out inventories [Rev. Rul. 2001–35] received June 26, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

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 follow:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1407. A bill to amend title 49, United States Code, to permit air carriers to meet and discuss their schedules in order to reduce flight delays, and for other purposes; with amendments (Rept. 107–77 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on International Relations. H.R. 2131. A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004; with amendments (Rept. 107–119). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1866. A bill to amend title 35, United States Code, to clarify the basis for granting requests for reexamination of patents; with an amendment (Rept. 107–120). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1886. A bill to amend title 35, United States Code, to provide for appeals by third parties in certain patent reexamination proceedings (Rept. 107–121). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CALVERT (for himself, Mr. HERGER, Mrs. BONO, Mr. FOLEY, Mr. RADANOVICH, Mr. FARR of California, Mr. THOMPSON of California, Mr. BAIRD, Mrs. THURMAN, and Mr. ISSA):

H.R. 2354. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of crops destroyed by casualty; to the Committee on Ways and Means.

By Mr. TOM DAVIS of Virginia:

H.R. 2355. A bill to amend subchapter III of chapter 83 of title 5, United States Code, to make service performed as an employee of a nonappropriated fund instrumentality after 1965 and before 1987 creditable for retirement purposes; to the Committee on Government Reform.

By Mr. SHAYS (for himself and Mr. MEEHAN):

H.R. 2356. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on House Administration, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JONES of North Carolina (for himself and Mr. HOSTETTLER):

H.R. 2357. A bill to amend the Internal Revenue Code of 1986 to permit churches and other houses of worship to engage in political campaigns; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland (for himself, Mr. UDALL of Colorado, Mr. BOEHLERT, Ms. JACKSON-LEE of Texas, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mrs. MORELLA, Mr. EHLERS, Mr. DELAHUNT, and Mr. WAMP):

H.R. 2358. A bill to authorize appropriations for environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology bioenergy programs, projects, and activities of the Department of Energy, and for other purposes; to the Committee on Science.

By Mr. SMITH of New Jersey (for himself and Mr. EVANS):

H.R. 2359. A bill to amend title 38, United States Code, to authorize the payment of National Service Life Insurance and United States Government Life Insurance proceeds to an alternate beneficiary when the first beneficiary cannot be identified, to improve and extend the Native American veteran housing loan pilot program, and to eliminate the requirement to provide the Secretary of Veterans Affairs a copy of a notice of appeal

to the Court of Appeals for Veterans Claims; to the Committee on Veterans' Affairs.

By Mr. NEY (for himself, Mr. WYNN, Mr. SWEENEY, Mr. MICA, Mr. REYNOLDS, Mr. LATOURETTE, Mr. PETERSON of Pennsylvania, Mr. HOBSON, Ms. DUNN, Mr. CUNNINGHAM, Mr. TAYLOR of North Carolina, Mr. TRAFICANT, Ms. PRYCE of Ohio, Mr. BLUNT, Mr. EHLERS, Mr. BALLENGER, and Mr. NORWOOD):

H.R. 2360. A bill to amend the Federal Election Campaign Act of 1971 to restrict the use of non-Federal funds by national political parties, to revise the limitations on the amount of certain contributions which may be made under such Act, to promote the availability of information on communications made with respect to campaigns for Federal elections, and for other purposes; to the Committee on House Administration.

By Mr. SMITH of New Jersey (for himself, Mr. EVANS, Mr. SIMPSON, Mr. REYES, and Mr. SPENCE):

H.R. 2361. A bill to increase, effective as of December 1, 2001, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BORSKI (for himself, Mr. BRADY of Pennsylvania, Mr. COYNE, Mr. DOYLE, Mr. ENGLISH, Mr. FATTAH, Mr. GEKAS, Mr. GREENWOOD, Ms. HART, Mr. HOEFFEL, Mr. HOLDEN, Mr. KANJORSKI, Mr. MASCARA, Mr. MURTHA, Mr. PETERSON of Pennsylvania, Mr. PLATTS, Mr. SHERWOOD, Mr. SHUSTER, Mr. WELDON of Pennsylvania, and Mr. PITTS):

H.R. 2362. A bill to establish the Benjamin Franklin Tercentenary Commission; to the Committee on Government Reform.

By Mr. GREENWOOD (for himself, Ms. KAPTUR, Ms. LEE, Mr. STARK, Mr. BONIOR, Mr. WAXMAN, Mr. LANTOS, Mr. BALDACCI, Mrs. JONES of Ohio, Mrs. TAUSCHER, Mrs. JOHNSON of Connecticut, Mr. ENGLISH, Mr. HINCHEY, Mr. TOWNS, Ms. HART, Mr. SHOWS, Ms. MCCARTHY of Missouri, Mr. FROST, Mr. ANDREWS, Mr. DEFAZIO, and Mrs. ROUKEMA):

H.R. 2363. A bill to provide for the establishment of regional centers to assist State and local governments, health maintenance organizations, nonprofit organizations, and other organizations in the development of peer-support activities and other nonprofessional services to assist persons to cope with and overcome persistent mental illnesses; to the Committee on Energy and Commerce.

By Ms. KAPTUR (for herself, Mr. GREENWOOD, Ms. LEE, Mr. STARK, Mr. BONIOR, Mr. WAXMAN, Mr. LANTOS, Mr. BALDACCI, Mrs. JONES of Ohio, Mrs. TAUSCHER, Mrs. JOHNSON of Connecticut, Mr. ENGLISH, Mr. HINCHEY, Mr. TOWNS, Ms. HART, Mr. SHOWS, Ms. MCCARTHY of Missouri, Mr. FROST, Mr. ANDREWS, Mr. DEFAZIO, and Mrs. ROUKEMA):

H.R. 2364. A bill to amend title XIX of the Social Security Act to provide States with the option of covering intensive community mental health treatment under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. COSTELLO (for himself, Mr. AKIN, Mr. WHITFIELD, Mr. MOLLOHAN, Mr. BOUCHER, Mr. SHIMKUS, Mrs. CAPITO, Mr. PHELPS, and Mr. LIPINSKI):

H.R. 2365. A bill to authorize Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities, so as to allow coal to help meet the growing need of the United States for the generation of clean, reliable, and affordable electricity; to the Committee on Science.

By Mrs. BIGGERT:

H.R. 2366. A bill to amend the Family and Medical Leave Act of 1993 to clarify the Act, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SESSIONS (for himself and Mr. WELDON of Florida):

H.R. 2367. A bill to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide for accountability of health plans; to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself, Mr. TOM DAVIS of Virginia, Ms. SANCHEZ, Mr. ROHRABACHER, Ms. LOFGREN, Mr. ROYCE, Mr. WOLF, and Mr. GILMAN):

H.R. 2368. A bill to promote freedom and democracy in Viet Nam; to the Committee on International Relations, and in addition to the Committees on Financial Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA (for himself, Mr. BARTLETT of Maryland, Mr. LEWIS of California, Mr. MCGOVERN, Mr. EHLERS, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Mr. BAIRD, Mrs. MORELLA, Mr. COX, Mr. HUNTER, and Mr. CUNNINGHAM):

H.R. 2369. A bill to amend title 23, United States Code, relating to the use of high occupancy vehicle lanes by hybrid vehicles; to the Committee on Transportation and Infrastructure.

By Mr. WELLER (for himself and Mr. NEAL of Massachusetts):

H.R. 2370. A bill to amend the Internal Revenue Code of 1986 to modify the exception from the treatment of welfare benefit funds for 10-or-more employer plans; to the Committee on Ways and Means.

By Mr. BALDACCI (for himself and Mr. ALLEN):

H.R. 2371. A bill to authorize the transfer and conveyance of real property at the Naval Security Group Activity, Winter Harbor, Maine, and for other purposes; to the Committee on Armed Services.

By Mr. BOSWELL:

H.R. 2372. A bill to direct the Secretary of the Army to convey the remaining water supply storage allocation in Rathbun Lake, Iowa, to the Rathbun Regional Water Association; to the Committee on Transportation and Infrastructure.

By Mr. BRADY of Texas (for himself, Mr. DOGGETT, Mr. SCARBOROUGH, Mr. TURNER, Mr. SESSIONS, Mr. SUNUNU, Mr. BASS, Mr. BARTON of Texas, Mr. SAM JOHNSON of Texas, Mr. GOODE, Mr. THORNBERRY, Ms. HART, Ms. GRANGER, Mr. CULBERSON, Mrs. NORTHUP, Mr. ENGLISH, Mr. HEFLEY, Mr. DOOLITTLE, Mrs. MYRICK, Mr. COMBEST, Mr. HOEKSTRA, Mr. TANCREDO, Mr. HUTCHINSON, Mr. GREEN of Wisconsin, Mr. RODRIGUEZ, Mr. ISTOOK, Mr. ROYCE, Mr. ISAKSON, Mr. COOKSEY, Mr. SCHAFFER, Mr. GOODLATTE, Mr. FLAKE, and Mr. TOOMEY):

H.R. 2373. A bill to provide for the periodic review of the efficiency and public need for Federal agencies, to establish a Commission for the purpose of reviewing the efficiency and public need of such agencies, and to provide for the abolishment of agencies for which a public need does not exist; to the Committee on Government Reform.

By Mr. CAMP:

H.R. 2374. A bill to amend the Internal Revenue Code of 1986 to treat certain motor vehicle dealer transitional assistance as an involuntary conversion, and for other purposes; to the Committee on Ways and Means.

By Mr. KIND (for himself, Mr. GILCHREST, Mr. BOEHLERT, Mr. DINGELL, Mrs. JOHNSON of Connecticut, Mr. LARSEN of Washington, Mr. GEORGE MILLER of California, Mr. PETRI, Mr. THOMPSON of California, Mr. BONIOR, Mr. QUINN, Mr. HOYER, Mr. WALSH, Mr. DICKS, Mr. EHLERS, Mr. OBERSTAR, Mr. BASS, Mr. BAIRD, Mr. KOLBE, Ms. WOOLSEY, Mrs. TAUSCHER, Mr. KING, Mr. UDALL of Colorado, Mr. GILMAN, Mr. MCDERMOTT, Mr. HINCHEY, Mrs. ROUKEMA, Mr. MCNULTY, Mr. BORSKI, Mr. MCHUGH, Mr. ETHERIDGE, Mrs. MORELLA, Mr. FARR of California, Mr. PALLONE, Mr. STUPAK, Mr. DELAHUNT, Mr. OLVER, Mr. GREENWOOD, Mr. KILDEE, Mr. BALDACCI, Mr. BLUMENAUER, Mr. ALLEN, Mr. KUCINICH, Mr. KENNEDY of Rhode Island, Mr. LANGEVIN, Ms. BALDWIN, Mr. BARRETT, Mr. MORAN of Virginia, Mrs. NAPOLITANO, Ms. MCCOLLUM, Mr. SMITH of Washington, Mr. INSLEE, Mr. LEWIS of Georgia, Mr. HOLT, Mr. WU, and Ms. HOOLEY of Oregon):

H.R. 2375. A bill to promote the conservation and preservation of working farms, ranches, and private forests; to the Committee on Agriculture.

By Mrs. CAPPS (for herself, Ms. HOOLEY of Oregon, Mr. DEFAZIO, Mr. THOMPSON of California, Mr. FARR of California, and Mr. WU):

H.R. 2376. A bill to expedite relief provided under the Magnuson-Stevens Fishery Conservation and Management Act for the commercial fishery failure in the Pacific Coast Groundfish Fishery, to improve fishery management and enforcement in that fishery, and for other purposes; to the Committee on Resources, and in addition to the Committees on Ways and Means, and Armed Services, 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. CASTLE (for himself, Mrs. MCCARTHY of New York, Mr. KIRK, Mr. MOORE, Mrs. TAUSCHER, Mr. SHAYS, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. BARRETT, Mr. BERMAN, Mr. BLUMENAUER, Mr. BORSKI, Mrs. CAPPS, Mr. CAPUANO, Ms. CARSON of Indiana, Mr. COYNE, Mr. CROWLEY,

Mrs. MORELLA, Mrs. DAVIS of California, Mr. DAVIS of Illinois, Mr. DOOLEY of California, Mr. ENGEL, Mr. FERGUSON, Mr. EVANS, Mr. FARR of California, Mr. FILNER, Mr. FRANK, Mr. GUTIERREZ, Ms. HARMAN, Mr. HOEFFEL, Ms. HOOLEY of Oregon, Mr. SMITH of New Jersey, Mr. HORN, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mrs. JOHNSON of Connecticut, Ms. SCHAKOWSKY, Mr. LANGEVIN, Mr. LANTOS, Mr. LARSON of Connecticut, Mr. LIPINSKI, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MARKEY, Ms. MCCOLLUM, Mr. MEEHAN, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mr. MORAN of Virginia, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. PASTOR, Mr. PAYNE, Ms. RIVERS, Ms. SANCHEZ, Mr. SCHIFF, Mr. SHERMAN, Ms. SOLIS, Mr. TIERNEY, Mr. TOWNS, Mrs. JONES of Ohio, Ms. VELÁZQUEZ, Mr. WEXLER, Ms. WOOLSEY, and Mr. WYNN):

H.R. 2377. A bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and to provide additional resources for gun crime enforcement; to the Committee on the Judiciary.

By Mr. CLEMENT (for himself, Mr. FROST, Ms. NORTON, Ms. HART, Mr. FRANK, Mr. BONIOR, Mr. MCNULTY, Mrs. THURMAN, Mr. GILLMOR, Mr. BALDACCI, Mr. HONDA, Mr. RANGEL, Mr. LATOURETTE, Mr. LANTOS, and Mr. PLATTS):

H.R. 2378. A bill to amend title II of the Social Security Act to increase the maximum amount of the lump-sum death benefit and to allow for payment of such a benefit, in the absence of an eligible surviving spouse or child, to the legal representative of the estate of the deceased individual; to the Committee on Ways and Means.

By Mr. CUMMINGS (for himself and Mr. DAVIS of Illinois):

H.R. 2379. A bill to amend title 5, United States Code, to ensure that the health benefits program for Federal employees covers screening for glaucoma; to the Committee on Government Reform.

By Mr. RUSH (for himself, Mr. TOWNS, Mr. WAXMAN, Mrs. CHRISTENSEN, Mr. HYDE, Mr. MANZULLO, Mr. COSTELLO, Mr. DAVIS of Illinois, Mr. PHELPS, Ms. SCHAKOWSKY, Mr. PALLONE, Ms. KAPTUR, Mr. BOEHLERT, Mr. ENGEL, Mr. BROWN of Ohio, Mrs. CAPPS, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MILLENDER-MCDONALD, Mr. BISHOP, Mr. WYNN, Mr. UDALL of Colorado, Mr. HINCHEY, Mr. SANDERS, Mrs. CLAYTON, Mr. EVANS, Mr. NADLER, Mr. HOLDEN, Mr. BURR of North Carolina, Ms. ESHOO, Mr. BARRETT, Mr. KIRK, Ms. PRYCE of Ohio, Mr. GREENWOOD, Mr. STUPAK, Mrs. MALONEY of New York, Ms. WATSON, Ms. LOFGREN, Ms. DUNN, Ms. DELAURO, Ms. PELOSI, and Mrs. KELLY):

H.R. 2380. A bill to provide for research on, and services for individuals with, postpartum depression and psychosis; to the Committee on Energy and Commerce.

By Mr. DEAL of Georgia:

H.R. 2381. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from an IRA for higher education expenses are exempt from the 10-percent early distribution tax even after annuitization of account; to the Committee on Ways and Means.

By Mr. DOYLE:

H.R. 2382. A bill to extend the deadline for commencement of construction of a hydroelectric project in Pennsylvania; to the Committee on Energy and Commerce.

By Ms. DUNN (for herself, Mr. MATSUI, Mr. TOM DAVIS of Virginia, Mr. DREIER, and Mr. WELLER):

H.R. 2383. A bill to amend the Internal Revenue Code of 1986 to increase and modify the exclusion relating to qualified small business stock and to provide that the exclusion relating to incentive stock options will no longer be a minimum tax preference; to the Committee on Ways and Means.

By Mr. GREEN of Texas:

H.R. 2384. A bill to amend the National Flood Insurance Act of 1968 to provide a 50 percent discount in flood insurance rates for the first 5 years that certain low-cost properties are included in flood hazard zones; to the Committee on Financial Services.

By Mr. HANSEN:

H.R. 2385. A bill to convey certain property to the city of St. George, Utah, in order to provide for the protection and preservation of certain rare paleontological resources on that property, and for other purposes; to the Committee on Resources.

By Mr. HANSEN (for himself, Mr. OTTER, Mr. YOUNG of Alaska, Mrs. CUBIN, Mr. PICKERING, Mr. HAYES, Mr. SIMPSON, Mr. RADANOVICH, Mr. CANNON, Mr. GIBBONS, Mr. PETERSON of Pennsylvania, Mr. REHBERG, and Mr. DUNCAN):

H.R. 2386. A bill to establish terms and conditions for use of certain Federal lands by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such lands; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARMAN (for herself, Mr. LEWIS of California, Mr. SHERMAN, Mr. GARY G. MILLER of California, Mr. GEPHARDT, Ms. ESHOO, Mr. ROHRABACHER, Ms. PELOSI, Mr. DREIER, Ms. WATERS, Mr. CUNNINGHAM, Ms. SOLIS, Mr. GRAVES, Mr. FILNER, Mr. THOMPSON of California, Mrs. CAPPS, Mr. CONDIT, and Ms. LOFGREN):

H.R. 2387. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington National Airport for certain communities in cases of airline bankruptcy; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY:

H.R. 2388. A bill to establish the criteria and mechanism for the designation and support of national heritage areas; to the Committee on Resources.

By Mr. HERGER (for himself and Mr. WALDEN of Oregon):

H.R. 2389. A bill to provide for the compensation of persons of the Klamath Basin who were economically harmed as a result of the implementation of the Endangered Species Act of 1973; to the Committee on the Judiciary.

By Mr. HOSTETTLER (for himself, Mr. LARGENT, Mr. SCHAFFER, Mr. TIAHRT, Mr. DEMINT, Mr. BARTLETT of Maryland, and Mr. AKIN):

H.R. 2390. A bill to prohibit the District of Columbia from using any funds to issue, implement, administer, or enforce any order invalidating the policy of the Boy Scouts of America regarding the employment or voluntary service of homosexual troop leaders; to the Committee on Government Reform.

By Mr. HOSTETTLER (for himself and Mr. YOUNG of Alaska):

H.R. 2391. A bill to prohibit any Federal agency from issuing or enforcing certain rules that may be applied to restrict the transportation or possession of a firearm on a public Federal road; to the Committee on Resources.

By Mr. INSLEE (for himself, Mr. SHAYS, Mr. UDALL of Colorado, Mr. WAMP, Mr. BAIRD, Mr. ALLEN, Mr. OLVER, Mr. SMITH of Washington, and Mr. HOLT):

H.R. 2392. A bill to amend the Internal Revenue Code of 1986 to provide, expand, or extend tax incentives for renewable and alternative electric energy, alternative fuels and alternative fuel vehicles, energy efficiency and conservation, and demand management and distributive energy generation; to the Committee on Ways and Means.

By Mr. ISRAEL (for himself and Mr. CROWLEY):

H.R. 2393. A bill to amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for energy conservation expenditures in residences and for purchases of energy efficient appliances; to the Committee on Ways and Means.

By Mr. KUCINICH (for himself, Mr. BROWN of Ohio, Mr. LATOURETTE, and Mrs. JONES of Ohio):

H.R. 2394. A bill to amend the Defense Production Act of 1950 to establish the National Defense Preparedness Domestic Industrial Base Board, and for other purposes; to the Committee on Financial Services.

By Mr. LAFALCE:

H.R. 2395. A bill to provide grants for FHA-insured hospitals; to the Committee on Financial Services.

By Mrs. MALONEY of New York:

H.R. 2396. A bill to amend the Communications Act of 1934 to require candidates for election for Federal office who refer to other candidates in their television or radio advertisements to include personal statements or images in the advertisements as a condition for receiving the lowest unit charge available for advertisements broadcast immediately before the election; to the Committee on Energy and Commerce.

By Mrs. MALONEY of New York (for herself, Mr. TOM DAVIS of Virginia, Mr. WYNN, Mrs. MORELLA, Mr. HOYER, and Mr. MORAN of Virginia):

H.R. 2397. A bill to require the Office of Personnel Management to conduct a study to determine the approximate number of Federal employees and annuitants who are eligible to participate in the health benefits program under chapter 89 of title 5, United States Code, but who are covered neither by such program nor by any other health insurance, and for other purposes; to the Committee on Government Reform.

By Ms. MCCARTHY of Missouri (for herself and Mr. DREIER):

H.R. 2398. A bill to establish a grant program to provide assistance to States for modernizing and enhancing voting procedures and administration, and for other purposes; to the Committee on House Administration.

By Ms. MCCARTHY of Missouri (for herself and Mr. SHIMKUS):

H.R. 2399. A bill to require the General Services Administration to identify all potential electrical capacity at Federal facilities available from existing installed backup

generators, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MCHUGH:

H.R. 2400. A bill to provide job creation and assistance, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, and Financial Services, 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. MCHUGH:

H.R. 2401. A bill to bridge the digital divide in rural areas; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCHUGH:

H.R. 2402. A bill to provide for grants to assist value-added agricultural businesses, and to amend the Internal Revenue Code of 1986 to provide a tax credit for farmers' investments in value-added agriculture; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-MCDONALD (for herself and Mr. MANZULLO):

H.R. 2403. A bill to direct the head of each executive agency to conduct a study on the improvement of employment readiness in the respective agency; to the Committee on Government Reform.

By Mr. GEORGE MILLER of California:

H.R. 2404. A bill to authorize Federal agency participation and financial assistance for programs and for infrastructure improvements for the purposes of increasing deliverable water supplies, conserving water and energy, restoring ecosystems, and enhancing environmental quality in the State of California, and for other purposes; to the Committee on Resources.

By Mrs. MORELLA (for herself, Ms. ESHOO, Ms. PELOSI, Mr. GREENWOOD, Mr. GANSKE, Mrs. LOWEY, Mr. SAWYER, Ms. DEGETTE, Mr. UPTON, Mrs. THURMAN, Ms. SLAUGHTER, Mr. JACKSON of Illinois, Mr. WAXMAN, Ms. MILLENDER-MCDONALD, Mrs. MALONEY of New York, Ms. DELAURO, and Mr. GEORGE MILLER of California):

H.R. 2405. A bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other sexually transmitted diseases; to the Committee on Energy and Commerce.

By Mr. NEAL of Massachusetts:

H.R. 2406. A bill to amend the Internal Revenue Code of 1986 to prevent the avoidance of gain recognition through swap funds; to the Committee on Ways and Means.

By Mr. OBERSTAR:

H.R. 2407. A bill to amend the Public Buildings Act of 1959 to direct the Administrator of General Services to provide for the procurement of photovoltaic solar electric systems for use in public buildings, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OSBORNE:

H.R. 2408. A bill to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands; to the Committee on Resources.

By Mr. OTTER (for himself and Mr. SIMPSON):

H.R. 2409. A bill to amend the Endangered Species Act of 1973 to vest in the Secretary of the Interior functions under that Act with respect to species of fish that spawn in fresh or estuarine waters and migrate to ocean waters, and species of fish that spawn in ocean waters and migrate to fresh waters; to the Committee on Resources.

By Mr. PAUL (for himself, Mr. BARTLETT of Maryland, Mr. GRAHAM, Ms. HART, and Mr. TIAHRT):

H.R. 2410. A bill to amend the Internal Revenue Code of 1986 to allow the Hope Scholarship Credit to be used for elementary and secondary expenses; to the Committee on Ways and Means.

By Mr. PAUL (for himself, Mr. BARTLETT of Maryland, and Mr. TIAHRT):

H.R. 2411. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax to professional school personnel in grades K–12; to the Committee on Ways and Means.

By Mr. RAHALL (for himself, Mr. YOUNG of Alaska, Mr. GEORGE MILLER of California, Mr. KILDEE, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Mr. PALLONE, Mr. SMITH of Washington, Mr. UDALL of Colorado, Ms. MCCOLLUM, and Mr. KENNEDY of Rhode Island):

H.R. 2412. A bill to establish programs to improve energy development on Indian lands, and for other purposes; to the Committee on Resources, and in addition to the Committees on Energy and Commerce, Ways and Means, Financial Services, and Agriculture, 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. RILEY (for himself, Mrs. TAUSCHER, Ms. MCKINNEY, Mr. KENNEDY of Rhode Island, Mr. FROST, Mr. MCGOVERN, Mr. EVANS, Mr. LANGEVIN, Mr. GIBBONS, Mr. SIMMONS, Mrs. JONES of Ohio, and Mr. FORBES):

H.R. 2413. A bill to amend title 10, United States Code, to establish a program of employment assistance, including employment-related tuition assistance, for military spouses; to the Committee on Armed Services.

By Mr. ROEMER (for himself, Mr. CLEMENT, Mr. GUTKNECHT, Mr. HILL, Mr. KIRK, Mr. LARGENT, Mrs. MCCARTHY of New York, Mr. MCHUGH, Mr. MOORE, Mr. MORAN of Virginia, Mrs. MORELLA, Mr. NETHERCUTT, Ms. RIVERS, Mr. SHOWS, Mr. SIMMONS, Mrs. THURMAN, and Mr. TURNER):

H.R. 2414. A bill to require any amounts appropriated for Members' Representational Allowances for the House of Representatives for a fiscal year that remain after all payments are made from such Allowances for the year to be deposited in the Treasury and used for deficit reduction or to reduce the Federal debt; to the Committee on House Administration.

By Mr. ROHRABACHER:

H.R. 2415. A bill to amend title 35, United States Code, to direct the Director of the Patent and Trademark Office to adjust fees charged by the Office so that the fees collected in any fiscal year will equal, to the greatest extent practicable, the amount appropriated to the Office for that fiscal year; to the Committee on the Judiciary.

By Mr. ROHRABACHER (for himself, Mrs. BONO, Ms. MCKINNEY, Mr. CALVERT, Mr. EVANS, Mr. WELDON of Florida, Mr. PAUL, Ms. HART, Mr. COX, Mr. HORN, Mr. CONDIT, Ms. KAPTUR, Mr. ROYCE, Mr. SOUDER, and Mr. SANDERS):

H.R. 2416. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the ownership and control of corporations by employees; to the Committee on Ways and Means.

By Mr. SHIMKUS (for himself and Mr. MARKEY):

H.R. 2417. A bill to facilitate the creation of a new global top-level Internet domain that will be a haven for material that will promote positive experiences of children and families using the Internet, to provide a safe online environment for children, and to help prevent children from being exposed to harmful material on the Internet, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SHIMKUS (for himself, Mr. RUSH, and Mr. LARGENT):

H.R. 2418. A bill to amend title X of the Energy Policy Act of 1992, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SIMMONS (for himself, Mrs. CHRISTENSEN, Mr. ABERCROMBIE, Mr. GRUCCI, Mr. ALLEN, Mr. BAIRD, Mr. JONES of North Carolina, Mr. FARR of California, Mr. GREEN of Wisconsin, and Mr. FRANK):

H.R. 2419. A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Ways and Means.

By Mr. SOUDER (for himself, Mr. ENGLISH, Ms. MCKINNEY, Mrs. JONES of Ohio, Mrs. MINK of Hawaii, Mr. UNDERWOOD, Mr. ABERCROMBIE, and Mr. BALLENGER):

H.R. 2420. A bill to require the Secretary of the Interior to conduct a theme study on the peopling of America, and for other purposes; to the Committee on Resources.

By Mr. STEARNS (for himself, Mr. TOWNS, Mr. BASS, Mr. DEAL of Georgia, and Mr. WALDEN of Oregon):

H.R. 2421. A bill to exercise authority under Article I, section 8, clause 3 of the Constitution of the United States to clearly establish jurisdictional boundaries over the commercial transactions of digital goods and services conducted through the Internet, and to foster stability and certainty over the treatment of such transactions; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STRICKLAND:

H.R. 2422. A bill to amend the Public Health Service Act to establish an Office of Correctional Health; to the Committee on Energy and Commerce.

By Mr. THUNE (for himself, Mr. GUTKNECHT, Mr. OSBORNE, and Mr. GANSKE):

H.R. 2423. A bill to provide for the energy security of the United States and promote environmental quality by enhancing the use of motor vehicle fuels from renewable sources, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TRAFICANT:

H.R. 2424. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal

minimum wage by $1.62 over 3 years; to the Committee on Education and the Workforce.

By Mr. TRAFICANT:

H.R. 2425. A bill to authorize assistance to establish a water treatment plant in Tirana, Albania; to the Committee on International Relations.

By Mr. UDALL of Colorado (for himself and Mr. GREENWOOD):

H.R. 2426. A bill to encourage the development and integrated use by the public and private sectors of remote sensing and other geospatial information, and for other purposes; to the Committee on Science.

By Mr. UDALL of New Mexico (for himself, Mrs. MINK of Hawaii, Mr. BALDACCI, Mr. MEEKS of New York, Mr. MCGOVERN, and Ms. SOLIS):

H.R. 2427. A bill to provide emergency assistance for families receiving assistance under part A of title IV of the Social Security Act and low-income working families; to the Committee on Ways and Means.

By Mr. UNDERWOOD (for himself, Mr. ACEVEDO-VILÁ, and Mrs. CHRISTENSEN):

H.R. 2428. A bill to require that the Director of the Office of Management and Budget explain any omission of any insular area from treatment as part of the United States in statements issued by the Office of Management and Budget; to the Committee on Resources, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS:

H.R. 2429. A bill to amend title 49, United States Code, to require the operator of Los Angeles International Airport to mail annual noise mitigation reports to residents in the area surrounding an airport; to the Committee on Transportation and Infrastructure.

By Ms. WATERS:

H.R. 2430. A bill to amend title 49, United States Code, to require air carriers to make contributions to communities impacted by noise from Los Angeles International Airport; to the Committee on Transportation and Infrastructure.

By Mr. WATKINS:

H.R. 2431. A bill to amend the Internal Revenue Code of 1986 to provide that certain amounts received by electric energy, gas, or steam utilities shall be excluded from gross income as contributions to capital; to the Committee on Ways and Means.

By Mr. BALLENGER (for himself and Mr. BURR of North Carolina):

H. Con. Res. 178. Concurrent resolution concerning persecution of Montagnard peoples in Vietnam; to the Committee on International Relations.

By Mr. DAVIS of Illinois (for himself, Mr. BILIRAKIS, Mr. CAPUANO, Mr. BONILLA, Mrs. JONES of Ohio, Mr. SHIMKUS, Mr. RAHALL, Mr. SERRANO, Mr. TOWNS, Ms. BALDWIN, Mr. LAFALCE, Mr. SCOTT, Ms. MCKINNEY, Mr. PETERSON of Pennsylvania, Mr. CUMMINGS, Mr. PAYNE, Mr. BLAGOJEVICH, Mr. FROST, Mr. LIPINSKI, Mr. WAXMAN, Mr. FILNER, Ms. ROYBAL-ALLARD, Mr. WATT of North Carolina, Ms. JACKSON-LEE of Texas, Mr. GOSS, Mr. MCNULTY, Ms. PRYCE of Ohio, Mr. WYNN, Mr. RUSH, Mrs. MEEK of Florida, Mr. FARR of California, Ms. NORTON, Mr. DINGELL, Mr. OWENS, Mr. HOEFFEL, Mr. REYES, Mr. JEFFERSON, Mrs. CHRISTENSEN, Mr. DEFAZIO, Mr. CRAMER, Mr. CLYBURN, Mr. PASTOR, Mr. DOOLEY of California, Mr. NORWOOD, Mr. RANGEL, Mr. GONZALEZ, Ms. BROWN of Florida, Mr. MENENDEZ, Mr. CONYERS, Mr. PICKERING, Mr. MCINTYRE, Mr. MEEKS of New York, Mr. BALDACCI, Mr. WHITFIELD, Mr. SANDLIN, Ms. SLAUGHTER, Mr. MASCARA, Mr. WALSH, Mr. MALONEY of Connecticut, Mr. BROWN of Ohio, Mr. PASCRELL, Mr. BASS, Mr. MCHUGH, Mr. WICKER, Mr. DICKS, Mr. BOYD, Mr. NADLER, Mr. RODRIGUEZ, Mr. WATTS of Oklahoma, Mr. STRICKLAND, Mr. OLVER, Mr. JACKSON of Illinois, Mr. MARKEY, Mr. BAIRD, Mr. PRICE of North Carolina, Mrs. MALONEY of New York, Mr. TIERNEY, Mr. LANGEVIN, Ms. SANCHEZ, and Mr. SMITH of New Jersey):

H. Con. Res. 179. Concurrent resolution expressing the sense of Congress regarding the establishment of a National Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers; to the Committee on Government Reform.

By Mr. DELAHUNT (for himself, Mr. GILCHREST, Mr. GEORGE MILLER of California, and Mr. SMITH of New Jersey):

H. Con. Res. 180. Concurrent resolution expressing the sense of the Congress that the United States should reaffirm its opposition to any commercial and lethal scientific whaling and take significant and demonstrable actions, including at the International Whaling Commission and meetings of the Convention on International Trade in Endangered Species, to provide protection for and conservation of the world's whale populations to prevent trade in whale meat; to the Committee on International Relations.

By Mrs. EMERSON (for herself, Mrs. CLAYTON, Mr. SHOWS, Mr. MURTHA, Mr. FALEOMAVAEGA, Ms. JACKSON-LEE of Texas, Mr. MCDERMOTT, Mr. GREEN of Wisconsin, Mr. GRAVES, Mr. HOLDEN, Mr. SKELTON, Mr. TOWNS, Mr. POMEROY, Mr. PASTOR, Mr. ENGLISH, Mr. PETERSON of Minnesota, Mrs. CHRISTENSEN, Mr. MCGOVERN, Mr. BEREUTER, Mr. STRICKLAND, Mr. HULSHOF, Mr. GIBBONS, Mr. UDALL of New Mexico, Mr. LUCAS of Oklahoma, Mr. BALDACCI, Mr. EVANS, and Mr. BLUNT):

H. Con. Res. 181. Concurrent resolution expressing the sense of the Congress regarding the need to protect post offices; to the Committee on Government Reform.

By Mr. RANGEL:

H. Con. Res. 182. Concurrent resolution expressing the sense of Congress that the United States Postal Service should issue a postage stamp commemorating Congressman Adam Clayton Powell, Jr.; to the Committee on Government Reform.

By Mr. FOLEY:

H. Res. 184. A resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. GALLEGLY:

H. Res. 185. A resolution supporting the implementation of the Good Friday Agreement as the framework for the peaceful settlement of the conflict in Northern Ireland; to the Committee on International Relations.

By Mr. GREEN of Texas (for himself, Mr. FROST, Mr. GONZALEZ, Mr. HALL of Texas, Mr. RODRIGUEZ, Mr. LAMPSON, Mr. HINOJOSA, Mr. BENTSEN, Mr. EDWARDS, Mr. ORTIZ, Mr. REYES, Mr. TURNER, Mr. STENHOLM, Mr. SANDLIN, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BACA, Ms. SOLIS, Mr. MENENDEZ, Mr. DOGGETT, Mr. BONILLA, and Mr. BRADY of Texas):

H. Res. 186. A resolution expressing the sense of the House of Representatives that the United States Postal Service should issue a postage stamp commemorating Juan Nepomuceno Seguin; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BEREUTER:

H.R. 2432. A bill for the relief of Richard W. Schaffert; to the Committee on the Judiciary.

By Mr. BONIOR:

H.R. 2433. A bill for the relief of Thair Bihnam, Christine Bihnam, Jamie Alan Bihnam, and Natash Bihnam; to the Committee on the Judiciary.

By Mr. PETRI:

H.R. 2434. A bill for the relief of Mohamed Abshir Musse; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. WOLF.

H.R. 12: Mr. KERNS.

H.R. 46: Ms. BALDWIN and Mrs. LOWEY.

H.R. 61: Mr. BROWN of Ohio and Mr. BONIOR.

H.R. 68: Ms. HOOLEY of Oregon, Mr. TRAFICANT, Mr. DUNCAN, Mr. CARSON of Oklahoma, Mr. LARGENT, Mr. ORTIZ, Mr. PETERSON of Minnesota, Mr. RYUN of Kansas, Mr. BRYANT, Mr. CANTOR, Mr. DEFAZIO, Mr. PHELPS, Mr. MASCARA, and Ms. ROS-LEHTINEN.

H.R. 97: Mr. OBERSTAR.

H.R. 122: Mr. TOOMEY, Mr. WAMP, Mr. KELLER, Mr. GRAHAM, Mr. SHIMKUS, Mr. BOUCHER, and Mr. HOBSON.

H.R. 123: Mr. LAHOOD, Mr. SOUDER, and Mr. WATKINS.

H.R. 218: Mr. LAHOOD.

H.R. 228: Mr. PASCRELL.

H.R. 236: Mr. FRELINGHUYSEN.

H.R. 267: Ms. KILPATRICK, Mr. HALL of Texas, and Mr. WELDON of Florida.

H.R. 274: Mrs. JONES of Ohio.

H.R. 280: Mrs. MYRICK.

H.R. 303: Mrs. JONES of Ohio.

H.R. 439: Mr. QUINN.

H.R. 448: Mr. LUCAS of Kentucky.

H.R. 510: Mr. RANGEL, Mr. PASCRELL, and Mr. KERNS.

H.R. 526: Mr. PHELPS.

H.R. 572: Mr. GILMAN.

H.R. 600: Mrs. NORTHUP, Mr. TOM DAVIS of Virginia, Mr. MATHESON, and Mr. HOLT.

H.R. 612: Ms. BERKLEY, Mr. MEEKS of New York, and Mr. LANGEVIN.

H.R. 619: Mr. BONIOR.

H.R. 664: Ms. LEE and Mr. HORN.

H.R. 668: Mr. LUTHER.

H.R. 687: Ms. WATERS.

H.R. 709: Mr. BONIOR, Mr. DAVIS of Illinois, and Mr. LANTOS.

H.R. 717: Mr. BROWN of South Carolina and Ms. BALDWIN.

H.R. 751: Mr. STUPAK.
H.R. 770: Mr. FORD.
H.R. 778: Mr. ANDREWS.
H.R. 781: Mr. LEWIS of Georgia, Mr. WU, Mr. MCINTYRE, and Mr. DOOLEY of California.
H.R. 786: Mr. BLUMENAUER.
H.R. 805: Mr. BRADY of Texas.
H.R. 822: Mr. LAHOOD and Mr. OXLEY.
H.R. 850: Mr. KENNEDY of Rhode Island.
H.R. 868: Mrs. MORELLA, Mr. HAYWORTH, Mr. MEEKS of New York, Mr. INSLEE, Mr. LAMPSON, and Mr. WYNN.
H.R. 876: Mr. LAMPSON, Mr. GUTKNECHT, and Mr. WAXMAN.
H.R. 898: Mr. LAHOOD.
H.R. 921: Mrs. NORTHUP, Mr. WELLER, Mr. CONYERS, and Ms. SANCHEZ.
H.R. 938: Mr. BROWN of Ohio.
H.R. 950: Mr. TRAFICANT.
H.R. 951: Mr. OLVER, Mr. MORAN of Virginia, Mr. SHAW, Mr. TIBERI, Mr. GOODLATTE, Mr. CLEMENT, Mr. KENNEDY of Minnesota, Mr. PALLONE, Mr. PAYNE, and Mr. INSLEE.
H.R. 967: Mr. RODRIGUEZ and Mr. BLAGOJEVICH.
H.R. 968: Mr. STUPAK, Ms. WOOLSEY, and Mr. BLUNT.
H.R. 969: Mr. TERRY.
H.R. 975: Mr. ISRAEL.
H.R. 981: Mr. HOSTETTLER.
H.R. 1007: Mr. MCNULTY, Mr. DOOLEY of California, Ms. LOFGREN, and Mr. ENGLISH.
H.R. 1021: Mr. WELDON of Florida and Mr. GILLMOR.
H.R. 1032: Ms. DELAURO.
H.R. 1038: Ms. WOOLSEY.
H.R. 1076: Mr. NETHERCUTT, Mr. CLYBURN, Ms. WATSON, and Mr. WATT of North Carolina.
H.R. 1092: Mr. PASTOR.
H.R. 1097: Mr. SHERMAN, Mr. BRADY of Pennsylvania, Ms. BERKLEY, Mr. BARRETT, and Mrs. NAPOLITANO.
H.R. 1109: Mr. HUNTER, Mr. TAYLOR of North Carolina, Mr. TOM DAVIS of Virginia, Mr. TIAHRT, Mr. STENHOLM, and Mr. PENCE.
H.R. 1111: Mr. LEVIN, Mrs. CAPPS, and Mr. CONYERS.
H.R. 1118: Ms. LEE.
H.R. 1134: Mr. MOORE, Mr. NUSSLE, Mr. GOODLATTE, and Mr. RAHALL.
H.R. 1136: Mr. UDALL of Colorado.
H.R. 1143: Mr. ISRAEL.
H.R. 1152: Ms. BALDWIN and Mr. DEFAZIO.
H.R. 1161: Mr. SHERMAN.
H.R. 1164: Mr. BONIOR.
H.R. 1167: Mr. DEFAZIO, Mr. LAMPSON, Mr. PASTOR, Mr. BOUCHER, Mrs. MEEK of Florida, Mr. HUNTER, and Ms. DEGETTE.
H.R. 1168: Mr. WYNN, Mr. LAMPSON, Mr. PASTOR, Mr. BOUCHER, Mrs. MEEK of Florida, Mr. HUNTER, Mr. STUPAK, Mr. LANTOS, Mr. CLEMENT, and Ms. DEGETTE.
H.R. 1170: Mr. DELAHUNT.
H.R. 1172. Mr. PRICE of North Carolina, Mr. SPENCE, Mr. SOUDER, Mr. GILMAN, and Mr. BEREUTER.
H.R. 1177: Mr. HINCHEY.
H.R. 1179: Mr. NUSSLE.
H.R. 1185: Ms. NORTON.
H.R. 1192: Mr. BURR of North Carolina.
H.R. 1194: Mr. LATOURETTE and Ms. MCCOLLUM.
H.R. 1198: Mr. HALL of Texas, Mr. TAYLOR of Mississippi, Mr. WOLF, Mr. DINGELL, Mr. DIAZ-BALART, Mr. GORDON, and Mr. HALL of Ohio.
H.R. 1202: Mr. EHLERS, Mr. RILEY, Mr. NEAL of Massachusetts, and Ms. RIVERS.
H.R. 1213: Mr. ROGERS of Michigan, Ms. SOLIS, Ms. MCKINNEY, and Mr. BLUMENAUER.
H.R. 1214: Mr. ROGERS of Michigan, Mr. LUTHER, and Mr. BLUMENAUER.
H.R. 1238: Mr. LARSON of Connecticut.
H.R. 1256: Mr. THOMPSON of California, Mr. SCHIFF, and Mr. THOMPSON of Mississippi.
H.R. 1262: Mr. LANGEVIN.
H.R. 1268: Mr. SKEEN and Mr. MATSUI.
H.R. 1304: Mr. NEAL of Massachusetts.
H.R. 1305: Mr. BARTLETT of Maryland.
H.R. 1331: Mr. HILLIARD, Mr. KERNS, and Mr. PETERSON of Minnesota.
H.R. 1340: Mr. SANDLIN and Mr. TIAHRT.
H.R. 1354: Mr. SHERMAN, Mr. SAXTON, Mr. CLEMENT, Mr. FOSSELLA, Mr. PICKERING, and Mr. MENENDEZ.
H.R. 1377: Mrs. MYRICK, Mr. CULBERSON, Mr. TAUZIN, Mr. BALLENGER, Mr. WATKINS, Mr. PAUL, Ms. GRANGER, Mr. CHAMBLISS, Mr. RILEY, Mr. STEARNS, and Mr. TANCREDO.
H.R. 1412: Mr. THOMPSON of Mississippi, Ms. SCHAKOWSKY, Mr. MORAN of Virginia, Mr. BENTSEN, and Ms. GRANGER.
H.R. 1429: Mr. SCHIFF.
H.R. 1434: Mr. BACA.
H.R. 1436: Mrs. CAPITO, Mr. HALL of Ohio, Mr. CUMMINGS, Mr. ROSS, Mr. CONDIT, Mr. WU, Ms. VELÁZQUEZ, Mr. WEINER, Mr. RAHALL, Mr. OSE, Mr. MEEHAN, Mr. CARSON of Oklahoma, Mr. BLAGOJEVICH, and Mr. WELLER.
H.R. 1455: Mr. HASTINGS of Washington.
H.R. 1458: Mr. GOODLATTE.
H.R. 1511: Mr. HINCHEY, Mr. MCGOVERN, Mr. KENNEDY of Rhode Island, and Mrs. TAUSCHER.
H.R. 1517: Mr. FRANK, Mr. FROST, Mr. GRAHAM, and Mr. CLEMENT.
H.R. 1524: Mr. PETERSON of Pennsylvania, and Mr. WELDON of Florida.
H.R. 1526: Mr. NUSSLE.
H.R. 1543: Mr. BONIOR and Mr. GOODLATTE.
H.R. 1556: Mr. DICKS, Mr. PALLONE, and Mr. MURTHA.
H.R. 1577: Mr. NADLER, Ms. WOOLSEY, Mr. RANGEL, Mr. THORNBERRY, Mr. LATOURETTE, Mrs. NORTHUP, Mr. LEACH, Mr. BURTON of Indiana, Mr. LUCAS of Oklahoma, Mr. DEMINT, Mr. BALLENGER, Mrs. EMERSON, Mr. CANTOR, Mr. PENCE, Mr. KERNS, and Mr. BRYANT.
H.R. 1581: Mr. GRAHAM and Mr. ARMEY.
H.R. 1591: Ms. LEE.
H.R. 1596: Mr. ISRAEL and Mr. STUMP.
H.R. 1598: Ms. WOOLSEY.
H.R. 1600: Mr. ISAKSON.
H.R. 1609: Mr. MURTHA.
H.R. 1613: Mr. LAMPSON.
H.R. 1624: Mr. TIBERI, Mr. BASS, Mr. BLAGOJEVICH, and Mr. STEARNS.
H.R. 1628: Mr. UDALL of New Mexico.
H.R. 1636: Mr. REHBERG.
H.R. 1644: Mr. MICA, Mr. ROEMER, and Mr. HAYWORTH.
H.R. 1657: Mr. OBERSTAR.
H.R. 1673: Mr. PASCRELL.
H.R. 1674: Mr. GANSKE.
H.R. 1685: Mr. GEORGE MILLER of California, Mr. ALLEN, and Ms. LEE.
H.R. 1693: Mr. PASCRELL.
H.R. 1701: Mr. OSBORNE, Mr. HULSHOF, Mr. CLYBURN, and Mr. SHERMAN.
H.R. 1704: Mr. COOKSEY and Mr. MILLER of Florida.
H.R. 1707: Ms. ROS-LEHTINEN.
H.R. 1731: Mr. JONES of North Carolina, Mr. LARGENT, Mr. OWENS, Mr. GREEN of Wisconsin, Mrs. JO ANN DAVIS of Virginia, Mr. NEY, Mr. HASTINGS of Washington, Mr. HOSTETTLER, Mr. GRAHAM, Mr. KELLER, Mr. VITTER, Mr. PENCE, and Mr. SENSENBRENNER.
H.R. 1733: Mr. FATTAH and Mr. SHERMAN.
H.R. 1744: Mr. STUPAK.
H.R. 1754: Mr. FOSSELLA and Ms. HOOLEY of Oregon.
H.R. 1759: Mr. KERNS.
H.R. 1764: Mr. RODRIGUEZ, Mr. PETERSON of Pennsylvania, Ms. HOOLEY of Oregon, Mr. WU, and Mr. DEFAZIO.
H.R. 1779: Mr. RANGEL and Mr. BARRETT.
H.R. 1780: Mr. HILLEARY.
H.R. 1795: Mr. HAYWORTH, Mr. BURTON of Indiana, and Mr. SHADEGG.
H.R. 1808: Mr. KING and Ms. WOOLSEY.
H.R. 1825: Ms. ROYBAL-ALLARD, Ms. SCHAKOWSKY, and Mr. SABO.
H.R. 1832: Mr. BISHOP, Mr. MCHUGH, and Mr. OTTER.
H.R. 1835: Mr. MCHUGH and Mrs. MORELLA.
H.R. 1839: Mrs. JO ANN DAVIS of Virginia, Mr. WOLF, and Mr. DEFAZIO.
H.R. 1849: Ms. NORTON, Mr. HORN, and Ms. MCKINNEY.
H.R. 1861: Mr. SNYDER.
H.R. 1862: Mr. BLAGOJEVICH.
H.R. 1890: Mr. SOUDER, Mr. VITTER, Mr. KOLBE, Mr. SAM JOHNSON of Texas, Mr. LARGENT, and Mr. GRAHAM.
H.R. 1897: Mrs. LOWEY, Mr. KOLBE, Mr. WYNN, Ms. MCCARTHY of Missouri, Mr. CLEMENT, Mr. BROWN of Ohio, Mr. BRADY of Pennsylvania, and Mr. LAFALCE.
H.R. 1928: Mr. BLAGOJEVICH.
H.R. 1935: Mr. PLATTS, Mr. MURTHA, Mr. REYES, Mr. ORTIZ, and Mr. CLEMENT.
H.R. 1949: Mr. KOLBE.
H.R. 1950: Mr. ISTOOK.
H.R. 1968: Ms. SLAUGHTER and Mr. GEORGE MILLER of California.
H.R. 1979: Mr. MCCRERY, Mr. WELLER, and Mr. EVANS.
H.R. 1983: Mr. FROST, Mr. SIMMONS, Mr. ISRAEL, Mr. STEARNS, and Mr. UPTON.
H.R. 1984: Mr. DEAL of Georgia, Mr. HYDE, Mr. SOUDER, and Mr. GOODLATTE.
H.R. 1986: Mr. HILLEARY.
H.R. 1987: Mr. BLUNT and Mr. BOEHNER.
H.R. 1988: Mr. VISCLOSKY and Mr. KUCINICH.
H.R. 1990: Mrs. MORELLA, Ms. JACKSON-LEE of Texas, Mr. SCOTT, Mr. WYNN, Ms. CARSON of Indiana, and Mr. RANGEL.
H.R. 1992: Mr. UPTON, Mr. HINOJOSA, and Mr. GOODE.
H.R. 1997: Mr. BONIOR and Ms. LEE.
H.R. 2020: Mr. FILNER and Mr. STENHOLM.
H.R. 2023: Mrs. THURMAN, Mrs. JOHNSON of Connecticut, Mr. CLEMENT, Mr. CHAMBLISS, Mrs. EMERSON, Mr. SESSIONS, Mr. HOYER, Mr. OTTER, Mr. CRAMER, Mr. FORD, Mr. VITTER, Mr. BOEHNER, Mr. YOUNG of Alaska, Mr. REHBERG, Mr. TIBERI, Mr. TANCREDO, Mr. CAMP, Mr. BARTLETT of Maryland, Mr. CUNNINGHAM, and Mr. SHAW.
H.R. 2036: Mrs. EMERSON, Mr. WELDON of Pennsylvania, Mr. JACKSON of Illinois, Mr. LIPINSKI, and Mr. RANGEL.
H.R. 2039: Mr. BLAGOJEVICH.
H.R. 2040: Ms. HARMAN.
H.R. 2055: Mr. RYUN of Kansas and Mr. STEARNS.
H.R. 2073: Mr. GONZALEZ, Mr. CLEMENT, Ms. HOOLEY of Oregon, and Mr. MORAN of Virginia.
H.R. 2074: Ms. MCCOLLUM.
H.R. 2088: Mr. LARGENT.
H.R. 2095: Mr. FROST.
H.R. 2096: Mr. LAHOOD and Mr. GOODE.
H.R. 2102: Ms. WATERS.
H.R. 2111: Mr. KING, Mr. BOEHLERT, Mr. HORN, and Mr. WALSH.
H.R. 2113: Mr. EVANS and Mr. WELDON of Florida.
H.R. 2114: Mr. HOSTETTLER.
H.R. 2117: Mrs. MINK of Hawaii and Mr. TIBERI.
H.R. 2118: Mrs. JONES of Ohio and Ms. DELAURO.
H.R. 2125: Mr. DEAL of Georgia, Mr. SHIMKUS, Mr. RAHALL, and Mr. FORBES.
H.R. 2138: Mr. DOOLEY of California and Ms. KILPATRICK.
H.R. 2145: Mrs. CHRISTENSEN and Mr. HASTINGS of Florida.

H.R. 2148: Mr. FILNER, Mr. LAFALCE, and Ms. MCKINNEY.

H.R. 2149: Ms. GRANGER, Mr. BACHUS, Mr. FORBES, Mr. EHLERS, and Mr. GRUCCI.

H.R. 2155: Mr. MCNULTY, Mr. MCHUGH, and Ms. HART.

H.R. 2157: Mr. DEFAZIO, Mr. BLAGOJEVICH, Mr. FROST, Mr. GIBBONS, Mr. BAKER, Mr. LAHOOD, Mr. SCHAFFER, Mr. YOUNG of Alaska, Mr. BYRANT, Mr. COOKSEY, Mrs. CUBIN, Mr. OSE, Mr. WALDEN of Oregon, and Mr. DEMINT.

H.R. 2160: Mr. HOEKSTRA and Mr. DEMINT.

H.R. 2163: Mr. SHIMKUS, Mr. WYNN, Mr. BONIOR, Mr. MCGOVERN, Mr. FROST, Mr. TRAFICANT, Ms. LOFGREN, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WOOLSEY, and Mr. LANTOS.

H.R. 2166: Ms. VELÁZQUEZ, Mr. JACKSON of Illinois, Mr. BARRETT, and Ms. WATERS.

H.R. 2167: Ms. DELAURO.

H.R. 2172: Mr. STARK.

H.R. 2173: Mr. GOODE.

H.R. 2181: Mr. MCDERMOTT and Mr. STUPAK.

H.R. 2182: Mr. MASCARA and Ms. HART.

H.R. 2185: Mr. OSE.

H.R. 2189: Mr. GOODE.

H.R. 2200: Mr. SENSENBRENNER.

H.R. 2203: Mrs. TAUSCHER, Mr. MCGOVERN, Ms. MCKINNEY, Mr. PASTOR, Mr. FALEOMAVAEGA, Mr. CLEMENT, and Mr. FROST.

H.R. 2211: Ms. MCCARTHY of Missouri and Mr. WAXMAN.

H.R. 2212: Mr. SESSIONS, Mr. KERNS, and Mr. HOBSON.

H.R. 2222: Mr. MCGOVERN, Ms. MCKINNEY, Mr. FROST, Mr. RANGEL, and Mrs. JONES of Ohio.

H.R. 2235: Mr. LAMPSON.

H.R. 2240: Mr. SHAW.

H.R. 2242: Mr. SENSENBRENNER.

H.R. 2246: Mr. LUCAS of Kentucky.

H.R. 2258: Mr. REYES.

H.R. 2281: Mr. JACKSON of Illinois.

H.R. 2291: Mr. LAFALCE, Mr. KLECZKA, Mr. PAYNE, Mr. RAHALL, Mr. BERMAN, and Mr. GILMAN.

H.R. 2294: Mr. BROWN of Ohio, Mr. MCNULTY, Ms. RIVERS, and Mr. BALDACCI.

H.R. 2308: Mr. LAFALCE.

H.R. 2310: Mr. MORAN of Virginia, Mr. BRADY of Pennsylvania, Mrs. MEEK of Florida, Mr. HINCHEY, Mrs. DAVIS of California, Mrs. THURMAN, Mr. RAHALL, Mr. ETHERIDGE, Mr. KENNEDY of Rhode Island, Mr. CLYBURN, Mr. RANGEL, Mr. MOLLOHAN, Mr. FATTAH, Mr. MCNULTY, Mr. MASCARA, Mr. FILNER, Mr. ANDREWS, Mr. OLVER, and Ms. MCCOLLUM.

H.R. 2315: Mr. KOLBE, Mr. LARGENT, Mr. TAYLOR of North Carolina, Mr. UPTON, Mr. COX, and Mr. WHITFIELD.

H.R. 2316: Mr. CRANE, Mr. RAMSTAD, Mr. HAYWORTH, Mr. HERGER, Mr. BRADY of Texas, Mr. SHAYS, Mr. CONDIT, Mr. ARMEY, Mrs. JOHNSON of Connecticut, Mr. KERNS, and Mr. THORNBERRY.

H.R. 2322: Mr. EHLERS.

H.R. 2329: Mr. PLATTS, Mr. SHAW, Mr. KIND, and Mr. SMITH of New Jersey.

H.R. 2335: Ms. KILPATRICK.

H.R. 2339: Mr. RAHALL, Mr. WAMP, and Mr. BRADY of Pennsylvania.

H.R. 2340: Mr. SERRANO.

H.R. 2341: Mr. RILEY.

H.J. Res. 20: Mr. ENGLISH and Mr. PENCE.

H. Con. Res. 17: Mrs. TAUSCHER and Mr. DEFAZIO.

H. Con. Res. 33: Mr. WELDON of Florida.

H. Con. Res. 77: Mr. EVANS, Mr. UNDERWOOD, Mr. ABERCROMBIE, Ms. MCKINNEY, Mr. CROWLEY, Mr. WU, Mr. ACKERMAN, Mr. SHERMAN, Mr. HONDA, Mr. FALEOMAVAEGA, Mr. KIRK, Mr. FILNER, Ms. PELOSI, Ms. ROYBAL-ALLARD, Mrs. NAPOLITANO, Ms. LOFGREN, Mrs. MINK of Hawaii, Ms. LEE, Mr. GILMAN, Mr. DOGGETT, Mr. MORAN of Virginia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MATSUI, Ms. SOLIS, and Mr. HILLIARD.

H. Con. Res. 89: Mr. NETHERCUTT and Mr. HERGER.

H. Con. Res. 97: Mr. ENGLISH and Mr. LEVIN.

H. Con. Res. 116: Mr. BLAGOJEVICH.

H. Con. Res. 128: Ms. ROS-LEHTINEN.

H. Con. Res. 144: Mr. DINGELL, Mr. STUPAK, Mr. COYNE, Mr. DAVIS of Illinois, Mr. PICKERING, Mr. ROGERS of Michigan, and Mr. MCHUGH.

H. Con. Res. 169: Mr. DICKS, Mrs. CHRISTENSEN, Ms. WATSON, Mr. GEPHARDT, Mr. LEVIN, Mr. JEFFERSON, Mr. WAXMAN, and Mr. RUSH.

H. Con. Res. 173: Mr. TIERNEY, Mr. LARSON of Connecticut, Ms. MCKINNEY, Mr. WAXMAN, Mr. CAPUANO, and Mrs. LOWEY.

H. Con. Res. 177: Mr. FARR of California, Mr. SANDERS, Mr. ACEVEDO-VILÁ, Mr. TIERNEY, Ms. WOOLSEY, Mr. FROST, Mr. EVANS, Ms. PELOSI, and Ms. EDDIE BERNICE JOHNSON of Texas.

H. Res. 65: Mr. KILDEE.

H. Res. 72: Mr. BLAGOJEVICH, Mr. MALONEY of Connecticut, Mr. FRANK, and Mr. FROST.

H. Res. 152: Ms. KILPATRICK and Mr. GOODE.

H. Res. 154: Mr. HINCHEY, Mr. COSTELLO, Mr. MEEKS of New York, Mr. FROST, Mr. GANSKE, Mr. KUCINICH, Mr. MANZULLO, Mr. FRANK, Ms. DEGETTE, Mr. BALDACCI, Mr. FILNER, Mr. BONIOR, Mr. HOLT, Mr. HALL of Ohio, Mr. BENTSEN, Mr. ABERCROMBIE, and Ms. LOFGREN.

H. Res. 181: Mr. LANTOS, Ms. ROS-LEHTINEN, Mr. KENNEDY of Rhode Island, and Mr. PAYNE.

DELECTIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1613: Mr. SIMMONS.

H.R. 2180: Mr. FERGUSON.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 2, June 27, 2001, by Mr. JAY INSLEE on House Resolution 165, was signed by the following Members: Jay Inslee, John Elias Baldacci, Michael R. McNulty, Carolyn B. Maloney, Adam B. Schiff, Rosa L. DeLauro, Bob Filner, Jim McDermott, John F. Tierney, John Lewis, Peter A. DeFazio, Patsy T. Mink, Steve Israel, Lynn C. Woolsey, Benjamin L. Cardin, Hilda L. Solis, Alcee L. Hastings, Carolyn C. Kilpatrick, Elijah E. Cummings, Danny K. Davis, Ed Pastor, Robert E. Andrews, Lois Capps, David E. Price, Major R. Owens, Dennis J. Kucinich, Frank Mascara, Mike Thompson, Patrick J. Kennedy, Joe Baca, Bob Clement, Ted Strickland, Tom Sawyer, Nita M. Lowey, Shelley Berkley, Karen McCarthy, Martin Frost, Karen L. Thurman, Robert A. Brady, Dennis Moore, Robert Wexler, Lynn N. Rivers, Dale E. Kildee, Grace F. Napolitano, Tom Lantos, Robert Menendez, Rush D. Holt, Wm. Lacy Clay, Earl F. Hilliard, Gregory W. Meeks, Susan A. Davis, Barbara Lee, Diane E. Watson, Brad Sherman, Darlene Hooley, Michael M. Honda, James R. Langevin, Tammy Baldwin, Ciro D. Rodriguez, Stephanie Tubbs Jones, Rick Larsen, Mike Ross, Eddie Bernice Johnson, Albert Russell Wynn, Charles A. Gonzalez, Jane Harman, Sanford D. Bishop, Jr., Joseph M. Hoeffel, Barney Frank, Fortney Pete Stark, Bill Pascrell, Jr., Nancy Pelosi, Zoe Lofgren, Anna G. Eshoo, Gary A. Condit, Carolyn McCarthy, George Miller, Michael E. Capuano, Howard L. Berman, Tom Udall, Marcy Kaptur, David D. Phelps, James P. McGovern, Sam Farr, Gary L. Ackerman, Charles W. Stenholm, Sander M. Levin, Diana DeGette, Thomas M. Barrett, Joseph Crowley, Eva M. Clayton, Maxine Waters, Ruben Hinojosa, Jaunita Millender-McDonald, Thomas H. Allen, Brian Baird, Neil Abercrombie, Xavier Becerra, Martin Olav Sabo, John W. Olver, Ellen O. Tauscher, Martin T. Meehan, James E. Clyburn, David E. Bonior, Bennie G. Thompson, Lucille Roybal-Allard, Jesse L. Jackson, Jr., Loretta Sanchez, Rod R. Blagojevich, Earl Blumenauer, James P. Moran, John J. LaFalce, Peter Deutsch, Jerrold Nadler, Ronnie Shows, Henry A. Waxman, Julia Carson, Janice D. Schakowsky, Silvestre Reyes, John B. Larson, Maurice D. Hinchey, John Conyers, Jr., Sherrod Brown, Edward J. Markey, Steny H. Hoyer, Mark Udall, Nick J. Rahall II, Louise McIntosh Slaughter, Frank Pallone, Jr., Robert T. Matsui, Bernard Sanders, Betty McCollum, Solomon P. Ortiz, Jose E. Serrano, Luis V. Gutierrez, Earl Pomeroy, Bill Luther, Bob Etheridge, Adam Smith, Corrine Brown, Carrie P. Meek, Nydia M. Velázquez, Donald M. Payne, Anthony D. Weiner, Paul E. Kanjorski, Chaka Fattah, Norman D. Dicks, William J. Coyne, David Wu, Charles B. Rangel, William D. Delahunt, James A. Barcia, James L. Oberstar, Cynthia A. McKinney, Richard A. Gephardt, Bart Gordon, Collin C. Peterson, Bobby L. Rush, Jerry F. Costello, Lane Evans, William O. Lipinski, and Steven R. Rothman.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2330

OFFERED BY: MR. BROWN OF OHIO

AMENDMENT NO. 26: In title VI, in the item relating to ''DEPARTMENT OF HEALTH AND HUMAN SERVICES—FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES'', insert before the period at the end of the first paragraph the following:

: *Provided further*, That of the total amount appropriated, $5,000,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to antibiotic drugs, in addition to other allocations for such purpose made from such total amount

H.R. 2330

OFFERED BY: MR. BROWN OF OHIO

AMENDMENT NO. 27: In title VI, in the item relating to ''DEPARTMENT OF HEALTH AND HUMAN SERVICES—FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES'', insert before the period at the end of the first paragraph the following:

: *Provided further*, That of the total amount appropriated, $2,500,000 is available for the purpose of carrying out the responsibilities of the Food and Drug Administration with respect to abbreviated applications for the approval of new drugs under section 505(j) of the Federal Food, Drug, and Cosmetic Act, and $250,000 is available under section

903(d)(2)(D) of such Act for the purpose of carrying out public information programs regarding drugs with approved such applications, in addition to other allocations for such purposes made from such total amount

H.R. 2330

OFFERED BY: MS. DELAURO

AMENDMENT NO. 28: In title I, in the item relating to ''FOOD SAFETY AND INSPECTION SERVICE'', insert at the end the following:

In addition, for the Food Safety and Inspection Service to improve food safety and reduce the incidence of foodborne illnesses, $50,000,000: *Provided,* That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

In title VI, in the item relating to ''FOOD AND DRUG ADMINISTRATION—SALARIES AND EXPENSES'', insert at the end the following:

In addition, for the Food and Drug Administration to improve food safety and reduce the incidence of foodborne illnesses, $163,000,000: *Provided,* That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

H.R. 2330

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 29: Add before the short title at the end the following new section:

SEC. ____. None of the funds appropriated or otherwise made available in this Act may be used to pay the salaries of personnel of the Department of Agriculture who permit the payment limitation specified in section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) to be exceeded pursuant to any provision of law, except, in the case of a husband and wife, the total amount of the payments specified in section 1001(3) of that Act that they may receive during the 2001 crop year may not exceed $150,000.

SENATE—*Thursday, June 28, 2001*

The Senate met at 9:15 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

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

Thank You, dear Father, for infusing Your nature in the Senators You have called to lead our beloved Nation. You have reproduced in them Your concern and caring for the health and healing of all of our people. Thank You for Your compassion expressed in the legislation for patient protection in America.

The Senators may differ on aspects of the implementation of this concern but are one in seeking unity on what is best for citizens across our land. Be with the Senators today as all aspects of this crucial legislation are focused and voted upon. Thank You for the managers on both sides of the aisle who have worked so long and tirelessly to review all possibilities for the best potential for all Americans.

Now as the Senators seek to complete debate and take conclusive votes, may they sense the unity of a common concern for a crucial cause of caring for our people. Place Your hand upon their shoulders and remind them that You are the magnetic center who draws them to unity for the welfare of our Nation. You are the healing power of the world who uses the medical professions to heal. Help the Senators to complete legislation that will assure the best care for the most people.

You, dear God, are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, 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, June 28, 2001.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

BIPARTISAN PATIENT PROTECTION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1052, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Pending:

Thompson amendment No. 819, to require the exhaustion of administrative remedies before a claimant goes to court.

Collins amendment No. 826, to modify provisions relating to preemption and State flexibility.

Breaux amendment No. 830, to modify provisions relating to the standard with respect to the continued applicability of State law.

recognition of the acting majority leader

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I ask that the time I use not be charged against either side.

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

SCHEDULE

Mr. REID. Mr. President, we will resume consideration of the Patients' Bill of Rights. We are going to have a vote at approximately 10 to 10. We have a unanimous-consent agreement in effect that will take us throughout the early afternoon, with votes scheduled throughout that period of time. We expect votes all evening. The leader would very much like to finish this bill today. Certainly the end is in sight. If not, we will work through the night—into the night, not through the night—we will come back tomorrow, and hopefully we don't have to come back Saturday.

What the leader has said is that we are going to complete this legislation. We are going to complete the legislation, plus the supplemental appropriations bill before we go home.

He said he would work Saturday, Sunday, Monday, and Tuesday and Wednesday, the 4th—take that off—and come back after that to complete our work. We are cooperating and doing our very best to meet the requests of Senators BYRD and STEVENS. Their last unanimous consent request has been cleared on this side as far as the filing of amendments. We applaud the four managers who have been working on this bill. We look forward to continuing to work today.

AMENDMENT NO. 826

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 30 minutes for debate to be equally divided between the Senator from Maine, Ms. COLLINS, and the Senator from Louisiana, Mr. BREAUX, prior to a vote on or in relation to the Collins amendment No. 826.

Who yields time? The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Virginia, Mr. ALLEN, be added as a cosponsor of the Collins-Nelson amendment.

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

Ms. COLLINS. I yield 6 minutes to the Senator from Kansas, Mr. ROBERTS.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, here is the issue: The ability of States to determine what is best for themselves. That is the issue. Sure, the issue is the Patients' Bill of Rights. But if Kansas or Nebraska or Maine or Massachusetts or Louisiana or Connecticut—as I look at Members in the Chamber—have an effective patient protection system that is working, why impose new Federal regulations that will force them to overhaul the system they have in place?

The Collins-Nelson-Roberts, and others, amendment would simply give the State of Kansas and other States the flexibility to provide patient protection required under this bill in a way that best fits each State. For example, last year in Kansas we implemented a new law that assists patients who get into a dispute with their insurance company over the refusal to pay for medical procedures. It is a long process, but the independent reviewer will make a decision and reply within 30 business days after an appeal procedure.

According to Kathleen Sebelius, our very good Kansas State Department of Insurance Commissioner, there were 22 cases that were closed last year; 12 decided in favor of the HMO and 10 overturned the decision made by the HMO. Now that more Kansans are aware of their ability to receive this external appeal and receive independent review, more cases have been filed with the Kansas Insurance Department. Simply put, our State commissioner, Kathleen Sebelius, and the Kansas State Department of Insurance are doing a good job looking out for the best interests of Kansans covered by HMOs.

So the question is, Why does the Federal Government need to tell our State we have to completely scrap what we are doing and put into place a Federal layer of new Washington-knows-best requirements? How good is this really for families in Kansas, or your States' families? In fact, Kansas has a large number of patient protections that have been in place for years, and the list is impressive. The list includes a comprehensive bill of rights, the internal and external appeals I have already described, consumer grievance procedures, emergency room services, OB/GYN access, prompt payment, continuity of care, a ban on gag clauses and financial incentives, screening and breast reconstruction, prostate cancer screening, maternity stay, drug and alcohol abuse treatment, standing referral, and the list goes on and on and on.

Under the bill we are debating today, many of these effective consumer protections Kansas has in place will have to be thrown out and we will have to start all over.

Our Kansas State Insurance Commissioner, Kathleen Sebelius, also serves as the president of the National Association of Insurance Commissioners. Kathleen has written a letter that clearly lays out the devastating effects the Washington one-size-fits-all plan will have on State insurance markets, and she warns—listen to this, colleagues—that this is going to be administered by an outfit called the Center for Medicare and Medicaid Services. It used to be called HCFA. If you really want to turn over your state regulations to HCFA, that is another issue that we can talk about for at least an hour or two. The commissioner stated in her letter:

> The proposed patient protection bills are far more complicated than the Health Insurance Portability and Accountability Act, or HIPAA, and will require considerable oversight. To resolve these issues, the National Association of Insurance Commissioners urges Congress to include in any patient protection legislation provisions that would preserve State laws and enforcement procedures, such as internal and external review processes. Failure to maintain State authority in this area could lead to implementation of regulations that are inconsistent with the needs of consumers in a State and that are not enforced effectively.

I think she nailed it right on the head. I am an original cosponsor of the Collins-Nelson amendment because it would allow States to do what they are already doing well. If these standards are not met, only then would the Federal Government come in and impose its standards, and the State would then be required to meet a higher standard in order to be made eligible for the Patient Quality Enhancement Grant Program. Other amendments will have a stick; this is a carrot. I prefer a carrot; other Senators may prefer a stick.

Let me just say, in summing up, can any other Member of this body honestly tell me what is in this bill is better than what the State of Kansas already has in terms of patient protection? Do you know better than our commissioner, Kathleen Sebelius, or Governor Graves, and the Kansas State Legislature? The answer is no.

My colleagues, support this amendment and give States a chance to apply the standards they have currently in place, that are working. The external and internal appeals process is working. Don't make us reinvent the Federal wheel.

I thank the Chair and my colleagues.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BREAUX. I yield myself 5 minutes.

Mr. President, I rise in strong support of the so-called Breaux-Jeffords compromise amendment. We are dealing with a question of how are we going to allow the States to continue to operate their own patient protection bills that many of them have already instituted. My own State of Louisiana has passed over 35 different patients' bills of rights guarantees, and they are working fairly well. I think my colleague, Senator JEFFORDS, wants to continue to allow those States to have their State plans in effect when they are substantially complying to what we are trying to do here on a national level.

As Senator KENNEDY said last night, if you had the Collins amendment, there would be no guarantee that States would have a Patients' Bill of Rights. They would not have to do anything if they so chose. A State could say they are not interested in guaranteeing patients within their borders any rights at all, period. We don't think it is the right thing to do. We are not doing it. The only thing that they would suffer, if they decided to take that approach under the Collins-Nelson amendment, is that they would lose grant money that is being authorized in this legislation.

Well, I think that is unfortunate in the sense that we are talking about a national program to guarantee patients the rights they should have under this legislation. I think there is strong agreement nationwide that there is a need to have some kind of a national guarantee that covers all Americans, not just some Americans, not just a few Americans, not just a handful of Americans, but all Americans, in dealing with their health insurance program.

Our compromise amendment does accomplish that goal, and it does it in a way that gives the maximum ability of the States to do what they think is necessary in crafting their Patients' Bill of Rights. The language that we have put forth says that State plans would not be superseded. They will continue to operate as they do today, if they substantially comply with the patient protection requirements that we are instituting on a national level for all Americans.

That doesn't mean their plan has to be exactly the same as the Federal requirements. It has to substantially comply. That is a legal term used in Congress on many other occasions. On the SCHIP program for providing insurance to children, which we have enthusiastically supported, the requirement is that a State can run their own program if it substantially complies with the Federal requirements for all Americans that were instituted by this Congress.

On the Medicare Program, folks here in Washington understand how to apply that terminology.

It is working. My State of Louisiana runs its own plan. I am very confident that my State of Louisiana will continue to run the plan we have in place right now under the Breaux amendment because it clearly would, in my opinion, substantially comply with what we are talking about here.

We have a definition of what ''substantially comply'' means by saying a State law would have the same or similar features as the patient protection requirements and would have a similar effect. That is not an unbearable standard at all. It does not have to be exactly. It just has to have the same or similar features.

They can design those rights on States that will be tailored to the needs of that particular State, and the only requirement is that it have the same or similar features. That is not too strong a guideline to the States or a requirement on behalf of the States. I think it can work. Most of the States, if not every single State, that have adopted a Patients' Bill of Rights will find their plans in their respective States will stay intact and will still be the State Patients' Bill of Rights under this legislation.

If a State decides for some reason they do not care, they are not going to do anything, there should be the ability for us to make sure all Americans are guaranteed the rights we are talking about today; that they are enforceable; there is an opportunity to go to court to enforce them; and that there is an appeals process when they are being abused.

This is what the Breaux-Jeffords amendment will allow. That is why it is a realistic compromise compared to the amendment of my good friends, Senator NELSON and Senator COLLINS, with whom I have worked on many occasions and will continue to do so in areas such as health. They are trying to do the right thing. Their amendment will allow some States to do nothing. Potentially thousands of Americans will not have any coverage whatsoever if that is the decision of the State.

We are writing legislation for all Americans, and I suggest the Breaux-Jeffords bill is a proper compromise that can bring this about.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, how much time is remaining on our side?

The ACTING PRESIDENT pro tempore. Nine minutes.

Ms. COLLINS. I yield 5 minutes to the Senator from Nebraska.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized for 5 minutes.

Mr. NELSON of Nebraska. I thank Senator COLLINS for her strong support for this amendment, and I commend my colleague, Senator BREAUX from Louisiana, for his strong support and consistent efforts to find a compromise.

Certainly, the effort is an improvement over where we had been. One area I want to point out I disagree with my friend from Louisiana is his suggestion that maybe the States will not do anything. If you take a look at the charts that Senator COLLINS and I have up, when you look at all the checks, I suggest the States have been doing something and they will continue to do something if the Federal Government does not come in and take away both the incentive and the opportunity by putting in what is termed affectionately ''a floor,'' a minimum.

The problem is these minimums very often become the ceiling or they become, if you will, the top of whatever is being done because the States will not have the same opportunity, nor will they have the same willingness with the Federal deregulation, of the federalization of the regulation of State insurance as it applies to these health plans.

Generally preemption occurs when the States have not acted. I cannot imagine we are now preempting what the States have done on the basis of they have done such a good job that we were able to pick and choose from the best of those protections to create this bill and now we say to them: It's a job well done; thank you very much, and, by the way, we will impose these on you and we will make sure your laws will have to be either substantially equivalent or consistent with, according to Frist-Breaux, or, with the compromise, substantially compliant.

I can understand our desire to take over the role of the States in this area if the States have not done anything, but I cannot understand the desire to do it when the States have done such a good job that we have picked and chosen from the best of those efforts to comprise our bill.

It does not make sense to preempt under these circumstances. That is why many of us would like to see the States have the opportunity to opt out so we will have continuing experimentation under the Jefferson principle that the States are the laboratories of democracy. I am not against all preemptions, but I do have a question about this preemption, whether it makes sense under the circumstances with the progress that the States have made.

The charts will show the States have been active. They have worked very hard and diligently and are continuing to do so. Delaware just last week enacted additional patient protection laws. What we need to do is make sure we continue to permit the States to experiment.

I am also worried that with the application of these standards to the States, we will not have further experimentation, we will not have further development of patient protections. I hate to think we are at a point where the status quo will be sufficient for today as well as for tomorrow. I worry this effort in having a floor will result in it becoming a ceiling.

If you look at the charts, you will see to one degree or another, whether it is emergency room or whether it is the external appeals or the internal appeals, that nearly every State is doing it. Many States have decided not to do everything under every set of circumstances. I do not think they ought to be penalized where they have made a conscious decision that that is not going to work within their State. We ought not to have, in my judgment, a one-size-fits-all approach. We have not found, if you will, the Holy Grail as it relates to what patient protection truly is. If we allow the States to continue to experiment, we will find that they will be innovative and they will come up with new methods of providing even better patient protections. After all, this is coming from the grassroots; this is coming from the bottom up.

I think we are making a mistake trying to drive it from the top down which will stifle and create the opportunity for stagnation rather than experimentation. I hope that will not be the case, but I do not see it really any other way.

The National Association of Insurance Commissioners, the president of the National Association of Insurance Commissioners, the National Council of State Legislators all agree with this approach.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who yields time?

Mr. BREAUX. I yield 5 minutes to Senator JEFFORDS.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized for 5 minutes.

Mr. JEFFORDS. Mr. President, I commend the Senator from Maine for keeping this issue alive. It is critically important that we defer as much as we can to the States because they are already set up for it. Why not let them do it?

On the other hand, this is a Federal Patients' Bill of Rights. That means equal rights to everyone in this country, so there is a requirement for uniformity as well as to make sure we get a firm and even enforcement of this bill.

A lot has been said about HIPAA and using HIPAA as an example of bad policy, and it was bad policy, but it was totally different. HIPAA dealt with portability of insurance in the case of people being laid off work.

They said, if you do not do it, HCFA will come in and do it, and five States said let HCFA do it, and it made a mess of it. This is different. We are talking about the enforcement of rights, an even enforcement across the country. Yet we do recognize it is important for the States to do it themselves. Many, if not most of them, are already doing a legislative enforcement to require the appropriate and fair enforcement of the rights of individuals on health care.

This is an important difference. HIPAA was a mess, but this has nothing to do with that. This is quite different from HIPAA.

We all support the Patients' Bill of Rights. The question is who ought to enforce it. We say, yes, let the States that want to do it do it. On the other hand, we need to make sure it is done fairly and uniformly across this country. We do give the authority to the Secretary to review it, and we also say he should lean over backwards to make sure the States do it if at all possible. It is not a HIPAA-type situation; we ought to differentiate that.

It is important that we also recognize that the compromise requires States to have protections that are ''substantially compliant with'' Federal protection and defines this standard as having the ''same or similar provisions and the same or similar effect.''

The Secretary must approve the State's certification of compliance in a manner that is in deference to existing State laws. If he does not act on the State application within 90 days, it is automatically approved. States that have their certification disapproved may challenge that disapproval in court.

The amendment developed by Senator BREAUX and myself requires States with additional flexibility to implement strong patient protections while guaranteeing a basic level of protection for all Americans in all health plans. Requiring the States to be in substantial compliance with the Federal law—not exact compliance but substantial compliance—provides States with the flexibility they need to implement strong patient protections while ensuring that all patients receive the Federal floor of protections. Under this amendment, States can keep their own laws as long as their basic intent is similar to the Federal standard and will have a similar effect.

The Secretary is required to be deferential to the States—give them every break you can but make sure that the bill of rights will be enforced. Give them every possible opportunity to do it themselves rather than having to go to court. However, this requirement does not infringe upon the Secretary's authority to determine whether current State laws will provide the basic level of protection promised to all Americans in the health plans under the Patients' Bill of Rights.

So HIPAA is just a totally different situation. It is a mess; we agree with that; but it is totally different. Do not get confused on the HIPAA example.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Maine.

Ms. COLLINS. How much time is remaining on my side?

The ACTING PRESIDENT pro tempore. Three minutes forty-seven seconds.

Ms. COLLINS. Mr. President, I yield 2½ minutes to the Senator from Ohio, Mr. VOINOVICH.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I thank my friends from Maine and Nebraska for offering this important amendment. I believe the Collins-Nelson amendment will allow the Senate to move forward and pass a strong Federal patient protection bill without suffocating the patient protections States have adopted over the last several years.

I wholeheartedly agree that the Senate should take action to protect those Americans not covered under state plans. While the states were in front protecting the majority of those insured individuals through state regulation, the federal government has dragged its feet.

However, a federal patient's bill of rights should not preempt the patient protections that have already been passed by the states. There are more than 117 million Americans who are covered under fully insured plans, governmental plans and individuals policies, which are all regulated under state law.

My colleagues supporting the McCain-Kennedy legislation believe that the federal mandates in the bill should apply not only to ERISA plans, but also to those 117 million Americans in state regulated health plans. Apparently, they do not think that the states, which have already acted and are already protecting millions of Americans, are competent enough to do the job. Instead, they think that the federal government will do a much better job.

My colleagues on the other side of this debate want the public to believe that all Americans need to be covered under a federal patient protections bill or else the quality of their health care will be jeopardized. The fact of the matter is that the majority of Americans are already covered under very good, very comprehensive state health care laws.

As a former Governor of Ohio, I was on the front lines in the fight to give working men and women in Ohio real health care choices. As governor, I signed into law five legislative measures and pushed through several administrative improvements to protect families who relied on state-regulated plans for their health care coverage.

The majority of states, including Ohio, have moved aggressively—certainly more quickly than the federal government—to reduce health care inflation, expand access for the working poor, enhance consumer protections and bring greater accountability to the system.

If the states had waited for the federal government to step up to the plate to provide patient protections, 117 million Americans would not have the patient protections they currently enjoy.

The simple truth is that the states have been out in front of the federal government in providing sound protections for its citizens. The following facts prove this point:

42 states have already enacted a comprehensive Patient's Bill of Rights;

50 states have mandated strong patient information provisions;

50 states already have an internal appeals process and 41 states have included an external appeals process;

48 states already enforce consumer protections regarding gag clauses on doctor-patient communications;

47 states already have regulations regarding prompt payment; and

44 states already enforce consumer protections for access to emergency care services.

The states are already getting the job done for the majority of insured Americans. But if we do not pass this amendment, we will be turning over to the Health Care Financing Administration (HCFA) the enforcement of state sponsored protection plans that are not substantially equivalent with the federal bill.

The fact is, HCFA already has its hands full. Administering and regulating Medicare and Medicaid has already overburdened this federal agency. Think about it. HCFA already has under its purview over 70 million Americans through these federal programs. Now, my colleagues want to place the health care of an additional 170 million Americans on HCFA's shoulders.

The simple fact is that HCFA cannot handle the burden.

Those individuals on the front lines of protecting the 117 million Americans with state regulated insurance know what will happen if the federal government is given the responsibility to oversee these state regulated health insurance plans.

In fact, the National Conference of State Legislatures has described the McCain-Kennedy bill as, ''. . . federal legislation that will largely preempt important state laws and replace them with federal laws that . . . the federal government is ill-prepared to monitor and enforce.''

Additionally, the National Association of Insurance Commissioners has made clear its concerns about the McCain-Kennedy bill: if the federal government unilaterally imposes a one-size-fits-all standard on the states, it ''could be devastating to state insurance markets.''

The amendment that Senators COLLINS and NELSON have offered will give true deference to state laws and the traditional authority that states have had to regulate insurance.

By ''grandfathering'' all state patient protection laws, Senators COLLINS and NELSON recognize that the vast majority of states have enacted comprehensive patient protections laws, as Ohio has done.

The amendment also encourages states, through Patient Quality Enhancement Grants, to review their current patient protection and, if the state legislature and governor so desire, take action to mirror federal patient protections.

I want to relay to my colleagues that I truly believe that this will be the most important federalism vote that the Senate takes this year.

In conclusion, it has been the traditional role of States to regulate the needs of our States. However, both the McCain-Kennedy bill as written and the Breaux amendment seek to preempt what the States have accomplished in protecting patients. The underlying bill as written would step over the 10th amendment which says: the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The bottom line is that the States have been involved in protecting patients a lot longer than the Federal

Government, and they are doing a good job with the protections they have put in place. They debated them in their State legislatures. Their insurance departments are doing a good job of enforcing those laws. The Breaux amendment and the underlying bill gets the States out of their role. We will have a dual system of enforcement—State insurance commissioners and HCFA. And I can tell you, anyone who knows anything about HCFA in terms of the responsibilities they have, knows they have a hard-enough time doing their job now. We should not get them involved in a system that is already working on the State level.

I beg my colleagues not to go along with federalizing this issue. Let's take care of the Federal people who have been exempted over the years because we haven't done the job we are supposed to do, and let the States continue to do the job they have been doing.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BREAUX. I yield 2½ minutes to my good friend, the Senator from Connecticut.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank my colleague from Louisiana. I commend him and the Senator from Vermont for their compromise proposal we will be voting on shortly. I reluctantly oppose my friend from Maine, my fellow New Englander. I have joined with her on so many issues and have such great respect for her.

There is a title to this bill. It is not titled casually; it is called the Patients' Bill of Rights. We talk about a bill of rights. Obviously we are all most familiar with our Constitution and the Bill of Rights we embrace and cherish so richly as American citizens. But if we are going to have a bill of rights when it comes to basic fundamental health care, as has been pointed out by the Senator from Louisiana and the Senator from Massachusetts and others, then there ought to be a floor that applies across the country to all 50 States. That is what we are really advocating.

If the Collins amendment is adopted, then what you are developing is a trapdoor in that basic floor that exists. Let me make the case just by pointing to one particular provision of this bill. That is the access to emergency room care, Mr. President.

I have this chart to make the point. In the States that are in red in this chart, they have laws that are weaker than the underlying bill when it comes to access to emergency rooms. We are not talking about some grandiose new plan. We are talking about a fundamental right that you can have access to the closest emergency room. In 27 States, they have a much weaker provision than is in this law. We are saying when it comes to a Patients' Bill of Rights, access to clinical trials, specialists, emergency rooms, this is the floor across the country. If you want to pass laws at the State level that are substantially in compliance with that, we welcome that. If you want to do something more than we are doing here, we welcome that. But if you are going to say that we are going to allow weaker laws to exist in the access to a gynecologist, to a pediatrician, to a clinical trial, to a specialist, or to an emergency room, then we don't think that is right.

If you are for the Collins amendment, in many ways you are going against this bill. I understand that. I appreciate the fact that people do not want to pass a Patients' Bill of Rights and just leave it up to each State to decide. But if you believe, as a majority of us do, and an overwhelming majority of the American public, that there ought to be a Patients' Bill of Rights, a basic floor that provides these basic standards, then you must vote to adopt the Breaux-Jeffords compromise amendment and retain the integrity of this bill.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. Who yields time?

Mr. KENNEDY. I imagine the Senator would like to close the debate, would she not?

I believe I have 2½ minutes.

Mr. President, the issue is very simple and very basic and very fundamental. It is whether all Americans are going to be covered as included in this legislation. We do not believe it should depend upon where you live. We believe it should depend necessarily on where you work. If a child needs a specialist to treat cancer, he or she ought to be entitled to see the specialist and receive the treatment. If a woman needs to be enrolled in a clinical trial that could be lifesaving, she ought to be entitled to participate. If a breadwinner who is crippled with arthritis needs a specialty kind of drug from a formulary, he or she ought to be able to obtain it.

Now, our bill guarantees these kinds of protections, but with the Collins amendment it is a roll of the dice. President Bush believes that all Americans should be covered. Every Republican bill that was introduced and considered in the House of Representatives said all Americans are covered. She covers about 40 percent of them; 60 percent of Americans are left out. We believe if you are interested in assuring that all Americans be covered, you ought to support the Breaux-Jeffords amendment. That will be doing the right thing.

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, one of the myths in this debate is that unless the Federal Government preempts State insurance laws, somehow millions of Americans will be unprotected in their disputes with HMOs. That is simply untrue. Ironically, my friend from Connecticut makes the point on emergency room care. Forty-four States have enacted legislation guaranteeing access to the nearest emergency room. But they have crafted their laws in different ways depending on the needs of those States. Why should the Federal Government second-guess those laws, substitute its judgment for the judgment of State legislators and Governors' offices all over this country? It does not make sense. The proposal of the Senator from Louisiana would be both burdensome to States and ineffective for consumers.

Does anyone really believe that a consumer with a problem with his or her insurance policy is better off calling the HCFA office in Baltimore than dealing with their own State bureau of insurance?

The States have more than 50 years of experience in regulating insurance. They have acted without any prod or mandate from Washington to enact good, strong patient protection laws. Let's honor their work. Let's build upon the good works of the States rather than preempting, second-guessing, and superseding their laws.

The ACTING PRESIDENT pro tempore. Who yields time?

Ms. COLLINS. Is there any time remaining?

The ACTING PRESIDENT pro tempore. The Senator from Maine has 24 seconds.

Ms. COLLINS. I yield back the remainder of my time if the other side is ready to yield back.

I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. All time is yielded back. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I move to table the Collins amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

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

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—53

Akaka	Dodd	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Bingaman	Edwards	McCain
Boxer	Feingold	Mikulski
Breaux	Feinstein	Miller
Byrd	Fitzgerald	Murray
Cantwell	Graham	Nelson (FL)
Carnahan	Harkin	Reed
Carper	Hollings	Reid
Chafee	Inouye	Rockefeller
Cleland	Jeffords	Sarbanes
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dayton	Landrieu	Wyden
DeWine	Leahy	

NAYS—44

Allard	Gramm	Nickles
Allen	Grassley	Roberts
Bennett	Gregg	Santorum
Bond	Hagel	Sessions
Brownback	Hatch	Smith (NH)
Bunning	Helms	Smith (OR)
Burns	Hutchinson	Snowe
Campbell	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Kyl	Thomas
Craig	Lott	Thompson
Crapo	Lugar	Thurmond
Ensign	McConnell	Voinovich
Enzi	Murkowski	Warner
Frist	Nelson (NE)	

NOT VOTING—3

Biden	Domenici	Shelby

The motion was agreed to.

Mr. KENNEDY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 830

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes for debate equally divided prior to a vote on or in relation to the Breaux amendment No. 830.

Who yields time?

Mr. BREAUX. Mr. President, I do not mind using the time allocated for remarks, but in light of the previous vote, after the remarks could we just vitiate the rollcall vote and have a voice vote on this amendment? I ask unanimous consent that that be in order.

The PRESIDING OFFICER. The yeas and nays have not been ordered on the Breaux amendment No. 830.

Mr. BREAUX. That would be my suggestion. We have the time allocated for comments on it, and then have a voice vote on it afterward.

Mr. KENNEDY. Mr. President, I think we will have the Senator from Minnesota speaking for 2 minutes, and then I think we will voice vote the Breaux-Jeffords amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BREAUX. I yield 2 minutes to the Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague for his graciousness.

Mr. President, I understand the need to compromise, and I think we are moving forward in a very positive way. I do want to point out for the record that what we are now saying is that a State need only be ''substantially compliant'' with Federal protections as opposed to ''substantially equivalent to.'' My big worry is that if you look at this amendment, we are also saying we need to give deference to the State's interpretation of its own law and its compliance with Federal protections.

I say two things to colleagues. No. 1, I think, in the best of all worlds, consumers would also have a right to appeal if they believe the State is in error.

To be fair, we want to give deference to what States are doing, as long as we have strong consumer protections for everyone regardless of where they live. I also believe if we are going to do that, we have to make sure not only that the States are given their proper due but so are consumers.

This amendment weakens the bill somewhat. I have said that to Senator BREAUX. Frankly, more than anything, it would be helpful to have an ombudsman office or something such as that in every State, where people would know where to make a phone call, know what their rights are. There are ways we can strengthen this.

I do not believe this amendment takes us in a strong consumer direction. It is a good compromise in terms of where we are. I wanted to speak out and express my concerns.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to amendment No. 830.

Mr. KYL. 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 assistant legislative clerk called the roll.

The result was announced—yeas 64, nays 36, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—64

Akaka	Edwards	McCain
Baucus	Ensign	Mikulski
Bayh	Feingold	Miller
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Boxer	Frist	Nelson (NE)
Breaux	Graham	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carnahan	Hutchison	Santorum
Carper	Inouye	Sarbanes
Chafee	Jeffords	Schumer
Cleland	Johnson	Smith (OR)
Clinton	Kennedy	Snowe
Cochran	Kerry	Specter
Conrad	Kohl	Stabenow
Corzine	Landrieu	Stevens
Daschle	Leahy	Torricelli
Dayton	Levin	Warner
DeWine	Lieberman	Wyden
Dodd	Lincoln	
Dorgan	Lugar	

NAYS—36

Allard	Durbin	McConnell
Allen	Enzi	Murkowski
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Thomas
Collins	Hutchinson	Thompson
Craig	Inhofe	Thurmond
Crapo	Kyl	Voinovich
Domenici	Lott	Wellstone

The amendment (No. 830) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire, or his designee, is recognized to offer an amendment relative to liability on which there will be 1 hour of debate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 831

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of myself, Mr. ROBERTS, and Mr. HELMS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. ROBERTS, and Mr. HELMS, proposes an amendment numbered 831.

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

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

The amendment is as follows:

(Purpose: To ensure that patients receive a minimum share of any settlement or award in a cause of action under this Act)

On page 154, between lines 2 and 3, insert the following:

''(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

''(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

''(C) DEFINITIONS.—In this paragraph:

''(i) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred in connection with such representation or work.

''(ii) AWARD.—The term 'award' means the sum of—

''(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

''(aa) final court decision;

''(bb) court order;

''(cc) settlement agreement;

''(dd) arbitration procedure; or

''(ee) alternative dispute resolution procedure (including mediation); plus

''(II) any attorney's fees awarded under subsection (g)(1) with respect to the participant or beneficiary (or estate); less

''(III) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

On page 169, between lines 12 and 13, insert the following:

''(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

''(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

''(C) DEFINITIONS.—In this paragraph:

''(i) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred in connection with such representation or work.

''(ii) AWARD.—The term 'award' means the sum of—

''(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

''(aa) final court decision;

''(bb) court order;

''(cc) settlement agreement;

''(dd) arbitration procedure; or

''(ee) alternative dispute resolution procedure (including mediation); less

''(II) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.''

Mr. BOND. Mr. President, several days ago in debate in this Chamber, I talked about how the employees of small businesses might lose their health care coverage if the provisions of McCain-Kennedy went into effect unamended. The junior Senator from North Carolina indicated that I was interested only in protecting the businesses.

Unfortunately, he misconstrued my arguments because we are concerned about patients. We hope the employees of small businesses will continue to get the benefit of health insurance coverage by their employers.

I spoke about employees, however, because if this bill is not significantly amended, there are not going to be patients covered by this bill; they are going to be thrown out of health care coverage. We are concerned about patients.

It is not only small businesses that should be worried about this bill, but employees of small businesses should also be worried about this bill.

This amendment I offer today provides additional protection to patients. It provides protection to patients from trial lawyers, so we will find out whether my colleagues are more interested in taking care of patients or ensuring that the rights to sue by trial lawyers are unabated.

There are a lot of words in the McCain-Kennedy bill, but there are also some heavy-duty new lawsuits that are authorized.

The Federal claim of action really begins on page 140. It starts off:

IN GENERAL.—In any case in which

(A) a person is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or agent of the plan, issuer, or plan sponsor—. . . .

Cause of action starts off, No. 1, regarding whether an item of service is covered under the terms; No. 2, regarding whether an individual is a participant or beneficiary; No. 3, application of cost-sharing requirements.

Then there is the real hooker; there is the bombshell that opens this baby up to anybody who really likes to file lawsuits. It says:

. . . otherwise fails to exercise ordinary care in the performance of a duty under the terms and conditions of the plan with respect to a participant or beneficiary.

There are tons of laws that are covered here—HIPAA and COBRA. This is a wonderful opportunity for our brothers and sisters of the trial bar to file lawsuits. That is the Federal side.

Then on page 157, it talks about State causes of action. It starts off, as this bill does—my good friend, the Senator from Texas points out all the bad stuff they do to providers of health insurance begins with ''does not apply,'' ''except.''

Preemption does not apply. ''nonpreemption of certain causes.'' It begins on page 157:

Except as provided in this subsection, nothing in this title . . . shall be construed to supersede or otherwise alter. . . .

It goes on page after page. There are exceptions for wrongful death, exceptions for willful disregard of safety of others; their definition of certain causes of action permitted. Somewhere around page 172 it gets to the point: Certain actions are allowable.

Basically, these pages of this bill provide tremendous opportunities to bring lawsuits. We should be talking about protecting patients, not about protecting trial lawyers.

I believe it is appropriate now that we consider some protection against the HMOs and the insurance companies, important as that is, and instead make sure that we protect patients against trial lawyers.

There are a lot of stories going on about trial lawyers: they are taking advantage of their clients; some attorneys ask for 40 to 50 percent of any settlement; refuse to negotiate with clients; contingency fees of 33 or 40 percent are common. Some trial lawyers flat out refuse to take a case based on an hourly fee, and they demand they be able to take a huge percentage of the award. They also take their out-of-pocket expenses off the top before the contingency fee is applied, and that means in some circumstances the injured party, the plaintiff, gets less than the plaintiff's attorney.

I think that is outrageous. As a former attorney, as a recovering attorney, I realize lawyers perform useful services when someone is harmed. They should be justly compensated.

However, this amendment says enough is enough. The amendment is very simple. Any patient who gets a monetary award through all the new lawsuits permitted in the McCain-Kennedy bill must get at least 85 percent of the award. If you are hurt, doesn't it make sense to receive 85 percent of it? I can't see that being objectionable. The amendment effectively prohibits obscene contingency fees where large judgments are won and the plaintiff's attorney takes 30 or 40 percent after deducting all the expenses.

Some may say lawyers will not take the cases. When we talk about setting a patient minimum, we need to be cautious. Just as it doesn't help to have a right to sue your HMO when your employer drops health care coverage, as would happen under this bill if it is not amended, it doesn't help to have a strong patient minimum requirement if it means no attorney will take your case. This amendment includes two strong protections to make sure access to attorneys is not threatened.

First, before the patient minimum is applied, the amendment allows the attorney to be reimbursed for expenses incurred during the case. Only after expenses are deducted from the award will a patient minimum apply. In practice, this means an attorney can never lose money on a lawsuit that results in an award.

Second, we exempt certain lower level awards from the patient minimum requirement. This ensures that the simpler cases that don't promise large awards can still be pursued and are not limited by the requirement that the patient gets 85 percent. We have set $100,000, which is above the median judgment normally entered in malpractice cases, as the limit.

I am not sure any State has taken the exact approach this amendment establishes with a patient minimum, but 14 States have established caps on attorney fees. The strictest cap is in New York where lawyers are limited to 10 percent of awards over $1.25 million. That is the equivalent of a 90-percent patient minimum. California has the most well-known cap on attorney fees. In California, lawyers are limited to 15 percent of any award in excess of $600,000. When you add Florida and Indiana, which also have a 15-percent cap for the highest level awards, 4 of the 14 States that established caps on awards of attorney fees essentially require that plaintiffs get at least 85 percent of an award.

Have these caps served as a barrier for plaintiffs? Have they denied access to the courts? From the data we have, we conclude they definitely have not. The State with the toughest cap, New York, produces almost twice as many malpractice awards per capita as the national average. The national malpractice per year per million residents, the U.S. average, is 49.2; California is 47.2; New York is 99.5, more than twice the normal national level. From the other States with tough caps, Florida has an average number of malpractice awards per capita and California's rate is about the average. Indiana, with a 15-percent cap, falls below the national average.

It is hard to argue that the caps threaten access to the courts through attorneys. The California law has existed for at least a decade. By not changing the law, the State legislature seems to have come to the same conclusion.

Why do we take 85 percent? When you take out expenses and exempt lower level awards, patients should get the overwhelming amount of an award. For a patient who has been harmed, it is perfectly reasonable to ask that that patient get 85 percent. For States with similar requirements, there does not seem to be a barrier to finding attorneys and bringing a lawsuit if you believe you have been harmed. To my knowledge, none of these States has repealed their caps, demonstrating that at least the State legislatures think they are working. By choosing 85 percent as the absolute minimum amount to which a patient is entitled, this amendment simply reconciles Federal law with laws that seem to be working in four of the largest States in this country.

We know of the horror stories. We have heard too many horror stories. I point out an August 16, 2000, article in the Los Angeles times about Rodney King, who was brutally beaten by Los Angeles police. He is taking a beating from his lawyers, he says. They made more money on his case than he has. By his reckoning, they cheated him out of more than $1 million. In a nutshell, the man whose 1991 videotaped beating made him an international symbol of police abuse said he thought he had a deal with his lawyer to pay them only 25 percent of the award but they wound up showing King's lawyers received $2.3 million while he got only $1.9 million.

Another lawyer in California won a class action suit for police brutality and civil rights and took a $44,000 verdict in the case, a $19,800 contingency fee, and collected $378,000 in fees awarded by the trial court; the client received $810.

I have other examples. But one of my favorites is the Lawyers Weekly report that a growing number of lawyers are putting arbitration clauses in the fine print, shielding them from being sued by another trial lawyer if the clients say they botched a case. The lawyers themselves who are making the money off the large judgments prefer their disputes go to private arbitration because arbitration is faster, cheaper, decisions are made by other lawyers rather than juries, and there is no public record. So they have recognized that there are certain instances in which it does not make sense to allow unfettered access to the courts for people with a claim.

If a patient is harmed and wins an award through a lawsuit, it is perfectly reasonable to expect the patient will receive at least 85 percent of the money. Almost 180 pages of the bill protect patients from HMOs and insurance companies. I simply propose we add a few pages to the bill to protect patients from trial lawyers.

I see the Senator from North Dakota is on the floor. I ask after the other side finishes speaking that my colleague from Iowa be recognized for 10 minutes.

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

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, this amendment is one more in a series of amendments designed to try to derail the Patients' Bill of Rights, or the Patient Protection Act.

There is no evidence of unfairness in the attorney fee portion of the bill that we brought to the floor of the Senate. No one has alleged that; no one has discussed that with us. This is the first moment in which there is an amendment offered and we have been working on this legislation for five years. It is interesting that the amendments are always designed to try to take the ground out from under patients, to diminish the opportunity for the patients to address the enormous problems they face in confronting a managed care organization that does not want to give the care promised the patients.

This amendment ultimately prevents injured patients from finding the adequate legal protection they need in order to confront a managed care organization. Congress has passed over 300 laws allowing attorney fees, and the laws are described for every Senator to see in a Congressional Research Service report No. 94–870–8. I commend anyone to that CRS report which describes these laws.

I have not found any Federal law on attorney's fees that is as restrictive as is proposed in this amendment. I repeat, there isn't any Federal law on attorney's fees that is as restrictive as that proposed this morning on the Patient Protection Act.

Why, when we have this issue of managed care organizations not providing the care required for patients and we have the opportunity in this legislation to hold the managed care organization accountable, why is it that those who don't like this Patient Protection Act try to carve the ground out from under patients once again with a restrictive proposal that almost certainly would diminish the opportunity of a patient to acquire access to an attorney to make that HMO accountable?

I find it also interesting that the concern behind this Bond amendment is apparently excessive attorney fees. There are striking excesses with respect to managed care organizations. Let me mention just a couple.

What about excessive salaries, excessive stock options? I don't hear anyone coming to the floor of the Senate complaining about $50 million in compensation that the CEO of a managed care organization receives. I don't hear anybody saying that is an excessive salary for an individual to receive. How is it these CEO's get to be rewarded in amounts a large as $50 million? By pinching on access to care that ought to be delivered to patients.

The opponents of our patients protection bill are not here on the floor saying that $50 million paid to the president of a managed care organization is excessive. We just hear them come out here to say we are worried about an excessive fee received by an attorney who is representing a patient trying to hold an HMO accountable.

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

Mr. DORGAN. I will be happy to yield, of course.

Mr. REID. Is the Senator aware that William McGuire of UnitedHealth Group earned $54.1 million last year?

Mr. DORGAN. I am aware of that.

Mr. REID. Is the Senator aware that there were unexercised stock options worth an additional $68 million by various people with that company, but McGuire held the most stock options, worth $358 million? Is the Senator aware of that?

Mr. DORGAN. I am aware of published reports that say that, yes.

Mr. REID. Did I hear the Senator say he has not heard any debate on the Senate floor this past 10 days about this excessive, exorbitant amount of dollars to the people who run these companies and not helping the patients? I have not heard that; has the Senator?

Mr. DORGAN. The Senator from Nevada is correct. We have not heard one word from opponents to our patients protection bill about the salaries, stock options, and the compensation paid to those who run the managed care organizations.

Let me go back to the intention of our Patients' Bill of Rights, and then bring it to this amendment. The reason we are here in the first instance is because too many people in managed care organizations are not getting the care they need. Too many people do not get the care they need or expect from their health care plan, and they are not able to hold the health care plan accountable for it.

This legislation says there ought to be protections in place for patients. Patients ought to be able to know all their options for medical treatment, not just the cheapest option. That is a patient's right. That is what we say in this legislation.

Some people do not want that. The managed care group does not want that. The insurance companies do not want that. We say a patient ought to have a right to emergency room treatment when they have an emergency. That is a right that is in this bill that we are trying to get passed. I understand why the managed care groups don't want that. I understand why there are some who oppose it here in the Senate because they stand with the insurance companies and the managed care groups. We stand with the patients saying there ought to be basic protections in place.

This amendment is one more attempt, by our opponents, in a series of attempts just to undermine this bill, to say no, we don't stand with patients, we don't stand with patients in order to allow them to exercise the rights that are in this bill. What our opponents would like to do is chip away and carve away at the foundation of this bill so at the end of the day the patients do not have these protections and the patients do not have these rights.

This amendment, if it were genuine, if it were really concerned about fees, would not just address attorney's fees. They would address the compensation paid to those who run these organizations, who make $50 million, $10 million, or $250 million in stock options. Is that excessive? We don't hear anyone on the floor of the Senate talking about that.

Why? Because this is not about fees. It is about with whom do you stand. It is about people who really do not want this legislation to pass. They have been dragging their feet now, day after day after day, bringing out amendments to try to defeat the Patients Protection Act. In every case, in every circumstance, they have failed. This amendment is the latest attempt to do that. The amendment limits attorney's fees in circumstances where patients would try to hold a managed care organization accountable. It limits attorney's fees, as I understand it, to an amount below all other attorney's fees that are now written in Federal law. We have it in a number of places in Federal law. I have referenced the CRS report. All Senators can look at it.

This amendment proposes we limit attorney fees below all those other areas mandated by federal law. Why? Because here we are talking about patients. We are trying to advocate on behalf of patients. Why would anyone want to take away the patients' rights when they are confronting big organizations?

One of the interesting things is I hear all this talk about a patient who would hire an attorney to make a managed care organization accountable. I hear no discussion about the legion of attorneys who are hired by managed care organizations to deal with patients—none. Do you think the big insurance companies and big managed care organizations do not have a battalion of lawyers they pay? Of course they do. Maybe you want to limit their opportunity to use lawyers? I don't think so. I don't propose that.

Then why would you want to limit the opportunity of patients to use attorneys to make an HMO accountable? This just makes no sense on its face. It is one more step, one more attempt to try to defeat this bill. We have had it day after day after day, amendment after amendment. I hope my colleagues will understand the last thing we ought to do is weaken the ability of the American people, who as medical patients expected certain care but did not get it, to be able to hire an attorney and make that managed care organization accountable.

I would say one more thing. I would like those who offered this amendment, who are indeed concerned about ''fees,'' to be concerned about all fees. If they are concerned about lawyer's fees, good for you. Then be also concerned about $50 million, and $250 million in compensation paid to a CEO who runs a managed care organization. Be concerned about those fees as well. You want to be consistent, bring both amendments to the floor and let's debate both amendments.

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

The PRESIDING OFFICER (Mrs. CARNAHAN). Under the previous order, the Senator from Iowa is recognized for 10 minutes.

Mr. REID. The two leaders are on the floor. I think they are about ready to propose a unanimous consent request. If they are not now, would the Senator mind yielding when they are ready?

Mr. GRASSLEY. I would rather wait. Hopefully, they will do it right now.

Mr. REID. Madam President, I suggest the absence of a quorum and I ask unanimous consent to have the time run equally on this amendment.

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

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

The Senator from Iowa.

Mr. GRASSLEY. Madam President, I support the Bond amendment and want to speak specifically to that point. It also deals with the point I have made in other speeches—that this is a very good bill. But during the process of considering giving patients a bill of rights against insurance companies, I think we always have to keep our eye focused upon the fact that we want to give treatment for patients and not tribute for lawyers.

This amendment takes a very good approach in fixing the Kennedy-McCain bill's provisions dealing with the liability parts of the bill, which, in my view, amount to nothing less than a trial lawyer's pot of gold.

I have always believed that medical malpractice liability laws should provide adequate compensation for those who are truly injured while reducing frivolous lawsuits.

I firmly believe that it is a principle of any case, including patients against insurance companies, that people who are harmed ought to be made economically whole. But there has to be a balance between frivolous lawsuits and making sure that people can be made whole if harmed.

I think the Kennedy-McCain bill fails to strike that very carefully needed balance and instead creates a lottery for trial lawyers, which not only inflates the cost of health insurance for all of us but also leads to more and more hard working Americans losing health coverage.

We shouldn't do anything in this bill that will cause people to lose their

health insurance. We already have 42 million uninsured Americans. The best opportunity for affordable health insurance as well as coverage is in employer-related health insurance programs.

Don't forget that we have over 50 million insured Americans under the self-insured plans that employers offer. The case is that most of these self-insured plans come from small business more so than large corporations. We should not be putting these employers and their employees in a situation where that employer, because of the threat of suit under this bill and losing a generation and a lifetime of savings in that family business, will not want to take a chance of losing his investment which has been built up through a family working together and investing everything back into the business because of a threatened lawsuit. If that is a threat, then you can understand why the employer might just eliminate their self-insurance and in the process throw the employees into a situation of having no health insurance, resulting increases in the number of 42 million people in this country who now do not have such insurance.

Here is how I believe this will inflate costs, and thus cause employers and employees to not have health insurance coverage. Except for the $5 million cap that is in this bill on punitive damages in Federal courts, the Kennedy-McCain bill sets absolutely no limits on what damages trial lawyers can collect.

When it comes to patients and those harmed because of lawsuits, it ought to be an axiom of all of our public policy that the people harmed, not lawyers, should get most of the money from a lawsuit.

Of course, the Bond amendment then makes this more true than under the existing practice. You have to consider that trial lawyers generally collect 40 percent of their clients' recoveries. In fact, in many cases, you can have the lawyer's fees plus other court costs work out to where the person harmed is getting less than 50 percent of what the jury might award.

Trial lawyers generally collect 40 percent of their clients' recoveries. Incentives for bringing cases regardless of merit are then extremely high. It is a perverse incentive to go to court and to go to trial.

But the real jewel in the trial lawyer's crown is this bill's provision that allows the same suits for the same claims brought by the same trial lawyers, whether they proceed in State or Federal courts.

Even though this debate is supposed to be about patients, the Kennedy-McCain liability scheme isn't about patients at all. It is about trial lawyers. In fact, as you can see, I call this the ''trial lawyers lottery ticket.'' I want to show where five out of six opportunities for monetary awards are virtually jackpots for lawyers.

Take a closer look. I would like to just scratch the trial lawyer's lottery ticket and see what the lawyer gets. Let's start with medical costs.

Peel off the lottery ticket top, both for State court and Federal courts, you will see ''bingo''—no limit on what trial lawyers can collect in both State and Federal court. That is a jackpot that ought to make any lawyer happy.

But why quit when you are ahead? Let's take a look at what is in store on pain and suffering. Peel that lottery ticket, and you can see what you get on pain and suffering. It is another jackpot—unlimited damages in State and Federal courts.

The sky is the limit. That is where the trial lawyers are really winning big.

Now, for the trial lawyer's favorite damages, punitive damages, they stand to reap tens of millions of dollars.

Let's see what this ticket offers the trial lawyers. So we pull off the punitive damages square. You can see: unlimited damages in State court, and up to a $5 million cap in damages as far as the Federal courts are concerned.

This is another big win. Talk about good luck: unlimited punitive damages in State courts, and in the Federal courts almost unlimited—a $5 million cap. If you ask me, that is hardly any limit at all.

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

Mr. GRASSLEY. No, I will not. I only have 10 minutes. And we lost some other time on this situation of waiting for the leader.

Mrs. BOXER. On my time. I would ask a question on my time.

Mr. GRASSLEY. Finally, if I could, let's not forget about class action lawsuits where multimillion-dollar damages are the name of the game. So here again we peel off the lottery ticket. You can have class action lawsuits in State courts. You can have class action lawsuits in Federal court.

So bingo again. Kennedy-McCain has no limits on class action lawsuits. It even creates new grounds for bringing class action cases.

As you can see, everybody wins—every lawyer, that is—with the trial lawyers' lottery ticket.

What we get back to then is that we are more concerned about treatment for trial lawyers, not treatment for patients. It seems ironic that the very individuals this bill claims to protect are the ones who lose. Despite what its sponsors say, the bill before us exposes employers to the constant threat of litigation, even for simple administrative tasks and clerical errors.

What is the ultimate result? What everybody says they do not want to ever happen. People lose coverage. When this sort of perverse incentive is out there to threaten small business, particularly those that are self-insured—because they do not want to put in jeopardy their lifetime of work but want to create jobs, so they can be part of the community, so they can have good workers and pay their workers well—and, most importantly, workers want good fringe benefits; and the No. 1 fringe benefit they want is health insurance—it puts it in jeopardy employer-based coverage. Then the ranks of the uninsured go up tremendously.

I yield myself 1 more minute.

Mrs. BOXER. Reserving the right to object, I would ask for 1 minute as well upon the conclusion of the Senator's remarks.

Mr. GRASSLEY. I object to that. There is plenty of time on that side for the Senator to take her time. I am taking time off our side.

Madam President, how much time do I have left?

The PRESIDING OFFICER. There are 3½ minutes left for the sponsor.

Mr. GRASSLEY. I would like to take 1 minute of that 3½ minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. So the ranks of the uninsured are going to go up. There are 42 million uninsured now. Do we want to increase that? No, nobody wants to increase that, but that is going to be the end result when these self-insured plans are dropped. Then, of course, the employees become the biggest losers in this lottery.

So I urge my colleagues to reject this lottery and to support the Bond amendment, which creates much needed patient minimums and ensures that patients, not lawyers, get fair compensation for their losses.

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

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. DASCHLE. Madam President, I will use my leader time and not take any time off the agreed-upon time allocated for the amendment.

Madam President, I would just say on the amendment, there is nothing in there that would limit the lawyers' fees for the insurance industry. Those are unlimited. While they limit the legal fees for lawyers defending patients, there is nothing to limit the legal fees for lawyers defending HMOs and insurance companies. I find that quite ironic.

SUPPLEMENTAL APPROPRIATIONS

Madam President, I want to propound a unanimous consent request. I will not do that at this time because I have been talking with the distinguished Republican leader. But I want to propound a request, as I had indicated I would, to lock in the debate for the supplemental.

There are a number of amendments that have been suggested. I know the unanimous consent agreement has been

cleared on our side now for I think 3 days. We have been unable to get consent from our Republican colleagues for the last 3 days.

Now I am told they may object to even going to the supplemental, at least initially. If that happens, of course, I will be forced to file a motion to proceed. But I think it is important.

There was a story in the Washington Times dated June 26, and I think for the RECORD it would be helpful if I just read it because I think it does capture the urgency with which we address the supplemental. So I will take just a moment to read it:

The U.S. military would be forced to curtail or cancel training exercises, facility repairs and equipment maintenance if Senate Majority Leader Tom Daschle holds up a pending emergency budget until late July, according to Pentagon projections.

The Pentagon provided a list of hardships at the request of Senate Minority Leader Trent Lott. He used the list yesterday to criticize Mr. Daschle for threatening to delay action on a $6.5 billion supplemental budget bill until the Senate completes work on a contentious patients' bill of rights. That delay would push approval of the fiscal 2001 defense legislation until late July or beyond.

''If we don't get this bill completed by . . . mid-July, we're going to have canceling of base-property maintenance, [and] holding some of our deployed units where they are overseas until the end of the fiscal year,'' said Mr. Lott. ''So we're really pushing the envelope when it comes to the needs of our military personnel in health as well as in steaming hours.''

Picking his first confrontation with Democrats since they took control of the Senate, Mr. Lott also accused Mr. Daschle of sacrificing the nation's urgent energy needs in order to push through the health care bill. . . .

Nearly all the budget bill's funding goes for replenishing military training accounts depleted by peacekeeping missions in the Balkans and elsewhere. Without emergency funding soon, the military will be forced to:

Curtail all nonessential operations such as pilot training, steaming hours, fleet exercises, and air combat training maneuvers. The Air Force and Navy would ground some pilots and aircraft.

Perhaps hold deployed units overseas until the new fiscal year begins October 1.

Cancel training for units getting ready to deploy for peacekeeping duties.

Stop or slow down maintenance of equipment at large regional depots.

''This will lead to the loss of jobs for many Americans,'' Mr. Lott's office said.

The Joint Chiefs of Staff originally wanted about $9 billion in [requests].

Madam President, I ask unanimous consent that the entire article be printed in the RECORD.

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

[From the Washington Times, June 26, 2001]

DASCHLE DELAYS; MILITARY WAITS

PENTAGON NEEDS EMERGENCY FUNDS

(By Rowan Scarborough and Dave Boyer)

The U.S. military would be forced to curtail or cancel training exercises, facility repairs and equipment maintenance if Senate Majority Leader Tom Daschle holds up a pending emergency budget until late July, according to Pentagon projections.

The Pentagon provided a list of hardships at the request of Senate Minority Leader Trent Lott. He used the list yesterday to criticize Mr. Daschle for threatening to delay action on a $6.5 billion supplemental budget bill until the Senate completes work on a contentious patients' bill of rights. That delay would push approval of the fiscal 2001 defense legislation until late July or beyond.

''If we don't get this bill completed by . . . mid-July, we're going to have canceling of base-property maintenance, [and] holding some of our deployed units where they are overseas until the end of the fiscal year [Sept. 30],'' said Mr. Lott, ''So we're really pushing the envelope when it comes to the needs of our military personnel in health as well as in steaming hours.''

Picking his first confrontation with Democrats since they took control of the Senate, Mr. Lott also accused Mr. Daschle of sacrificing the nation's urgent energy needs in order to push through the health care bill.

Neglecting energy and defense has ''very dangerous implications for the security and prosperity of the American people,'' the Mississippi Republican said.

Nearly all the budget bill's funding goes for replenishing military training accounts depleted by peacekeeping missions in the Balkans and elsewhere. Without emergency funding soon, the military would be forced to:

Curtail all nonessential operations such as pilot training, steaming hours, fleet exercises and air combat training maneuvers. The Air Force and Navy would ground some pilots and aircraft.

Perhaps hold deployed units overseas until the new fiscal year begins Oct. 1.

Cancel training for units getting ready to deploy for peacekeeping duties.

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''This will lead to the loss of jobs for many Americans,'' Mr. Lott's office said.

The Joint Chiefs of Staff originally wanted about $9 billion in emergency funding in January. But incoming Defense Secretary Donald H. Rumsfeld nixed the request. The White House scrubbed the numbers and presented the $6.5 billion proposal. The House already has approved that number, as did the Senate Appropriations Committee.

Mr. Lott said he suggested the Senate OK the emergency defense bill by unanimous consent, since both chambers approved Mr. Bush's list of spending requests without adding home-state projects, as was the practice with supplemental bills the past few years. But Mr. Lott said Mr. Daschle, South Dakota Democrat, rejected that idea.

Mr. Dashle, despite earlier indications that he would allow a speedy vote on the spending bill, told colleagues Friday that he would not bring it to the floor until the Senate completes work on a patients' bill of rights.

Republicans have been slowing down final passage of that legislation, raising concerns about employer liability and increasing premiums. Their tactics could derail Mr. Daschle's stated goal of finishing the bill by Friday.

The fate of the health care bill is particularly sensitive for Mr. Daschle because it is his first test of his ability to move legislation since becoming majority leader. Senate committees remain unable to take up new legislation due to prolonged negotiations between the parties on how to reorganize and whether to guarantee votes on Supreme Court nominees.

Daschle spokeswoman Molly Rowley said Mr. Daschle wants to complete the patients' bill of rights, the spending bill and the reorganization before the Senate adjourns for the Fourth of July recess.

''We think all three of these things can be done this week before we leave,'' she said.

Sen. Robert C. Byrd, West Virginia Democrat and chairman of the Appropriations Committee that approved the spending bill last week, said yesterday he was ''not in a position to comment'' on Mr. Daschle's intentions.

''The leader has to balance a lot of things,'' Mr. Byrd said, ''I'm sure he'll get to the [spending bill] when he thinks he can.''

Mr. Lott said Mr. Daschle rejected his suggestion to approve the spending bill by today, making it unlikely that a conference bill could be worked out before the House adjourns Friday for a weeklong Independence Day vacation.

''We need to get this defense and other issues supplemental done before we leave, because it is critical for nonessential operations like pilot training, steaming hours, fleet exercises,'' Mr. Lott said, ''I'm very worried that by not acting this week on the defense supplemental appropriations bill we're asking for more delay and even more problems with our defense needs.''

Mr. Daschle has been threatening to cancel the Senate's vacation to compel Republicans to finish work on the health care bill.

Republicans and Democrats have been sniping politely about legislative priorities ever since the power shift in the Senate. Republican lawmakers have been pressing for passage of President Bush's energy plan, but Mr. Daschle has expressed more interest in the health-care legislation, as well as increasing the minimum wage and passing a hatecrimes bill.

Mr. Lott said yesterday that Democratic leaders do not intend to address the energy issue by the end of July.

Congress is in recess for the entire month of August, meaning the Senate would not take up the administration's energy plan unitl September at the earliest.

House and Senate Republicans met with White House representatives late yesterday and agreed to call attention to Democrats' inaction on an energy plan over the recess next week. The meeting took place in the office of House Majority Whip Tom DeLay, Texas Republican.

Mr. DASCHLE. Madam President, Senator STEVENS and Senator BYRD came to me a couple of weeks ago and asked for a special exemption from the understanding we have been working under here in the Senate that no official action can take place on any legislation until we have broken the impasse on the organizing resolution and assigned each committee its full complement of members. I, of course, agreed, in the interest of urgency, to allow the Appropriations Committee to work its will and to finish this supplemental, which is what it did. I applaud both of them for taking the action they did.

The House, of course, has now acted. Now it is up to us. A couple of days ago the President called me and said: Above all, I hope that you will pass the supplemental before you leave. I gave

the President my personal assurance that we would pass the supplemental here in the Senate before we leave.

Now I am told that there are some who would prefer to take vacation rather than finish the work. Madam President, we can't do that. We can't take vacation until the work is done. We can't take vacation until the Patient Protection Act is done. We can't take vacation until the supplemental is done. We can't take vacation until the organizing resolution is done. It is as simple as that.

I will propound a unanimous consent request at a later time because I know Senator STEVENS wanted to come to the floor. We have been working through this. As I say, I thought we had an agreement. In fact, I was told we were able to propound the request an hour or so ago. Unfortunately, that report apparently was in error.

I am going to do what we have to do, in part because as Senator LOTT has said so clearly—and forcefully—the alternative to not acting is to risk what the Washington Times has reported, to wreak havoc with the military, to keep them from getting their job done, to actually endanger our military personnel in some ways. We are not going to be accused of endangering the military. We have to do what the President, the Commander in Chief, requested. That is what we are doing here.

We will offer the unanimous consent request to proceed. If that fails, I will file a cloture motion on the motion to proceed, and when it ripens we will have the vote. But we will have the vote.

Mr. DORGAN. Will the Senator from South Dakota yield?

Mr. DASCHLE. I am happy to yield.

Mr. DORGAN. I ask the majority leader, isn't it the case that the three issues that are outstanding—finishing the Patients Protection Act, passing the supplemental, and the organizing resolution—could be done rather quickly? We have, after all, been debating the Patients Protection Act for some long while. We have gone through most of the major amendments. We started debating this issue 5 years ago. It has now been on the floor for some while. We have done most of the major amendments. If we could complete the Patient's Bill of Rights later today we could move on to other business. I am a member of the Appropriations Committee. When we passed the supplemental bill, it was passed almost with no amendments in the House of Representatives; that bill is very important—we did it with very little debate in the full Appropriations Committee. The organizing resolution can be completed, I understand, with perhaps one vote.

It is the case, isn't it, that all of this could be done perhaps this evening if we had cooperation? Is that not the case?

Mr. DASCHLE. The Senator is correct. As I understand it, this bill was not subject to amendment in the House. It passed overwhelmingly in a very short period of time. I don't know why we would have to elongate or unnecessarily prolong the debate on this side.

Whatever length of time may be required to consider this bill, we will do that. All I am saying is that we have to do it before we leave.

I see both the ranking member of the Appropriations Committee and the distinguished Republican leader are on the floor.

I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed to the consideration of Calendar No. 76, S. 1077, the supplemental appropriations bill and that the bill be considered under the following limitations: That only first-degree amendments in order other than a managers' amendment be the following list which is at the desk—I won't read the list at this point—that any listed first-degree amendment be subject to relevant second-degree amendments, that any time limitation for debate on a first-degree amendment be specified in this agreement; then any second-degree amendment to that amendment be accorded the same time limit; that upon disposition of the above amendments, the bill be advanced to third reading; the Senate then proceed to the consideration of Calendar No. 77, H.R. 2216; that all after the enacting clause be stricken and the text of S. 1077, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, and the Senate then vote on passage of the bill with no intervening action or debate.

Finally, I ask unanimous consent that S. 1077 be returned to the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. First of all, I think it is important that we dispose of this issue as quickly as possible so that we can get back to the debate on the amendments that are pending. There are still a number of very important amendments that Senators wish to offer with regard to the Patients' Bill of Rights. I know the Senator from Nevada has been working on this issue and knows that. These are substantive and important amendments.

When it was suggested by the Senator from North Dakota that most of the major amendments have already been offered and considered, I don't believe that is accurate. Of course, I guess how important they are is in the eye of the beholder or the offeror of the amendment. I think it is important that we address this issue and get back to having debate and hopefully votes this afternoon and into the night, however long it takes to deal with important issues that still need to be addressed.

We still believe very strongly that this bill has not been corrected in terms of its major problems in the likelihood of loss of coverage and increased premiums, and when, how, and where lawsuits are going to be filed instead of making sure patients get the health care coverage they need. We can resolve this relatively quickly and then go back to that.

With regard to the organizational resolution, we continue to exchange ideas. I think it is possible that it could be handled with only one vote, or it may take three, but we are hoping we can get that worked out. I know there are a couple of letters that are being reviewed now on both sides that might make it unnecessary to have three recorded votes. I think we are going to have two letters dealing with the question of public disclosure of the blue slips which can be used by Senators to block a judicial nomination. There is a strong belief on both sides that those should be made public and not just handled secretly, as has sometimes been the case but not always the case, in the past.

Also, we are looking to see if we can get some agreement in writing that we would continue to do what the precedents are with regard to Supreme Court nominees. I believe going back all the way to 1881, the whole Senate has voted on Supreme Court nominees even when the committee has voted on a tie or negatively. But we are working on that, and I would like us to get that resolved in the next 24 hours myself.

With regard to this unanimous consent request, I had really hoped we could do it Monday. I thought it could have been, I believed it could have been done Monday in a very limited period of time without this rash of amendments. I think we could have gotten an agreement that there be no amendments. That didn't happen for whatever reason.

Senator BYRD and Senator STEVENS had indicated they would like to have done it even last night so that we could have done it quicker and so we could perhaps have gotten into a conference with the House. The problem now is that if we don't take this up immediately, right now, we are not going to be able to get a conference agreement. There is no chance of a conference agreement until after the Fourth of July recess, even if the Senate should act sometime tomorrow or Saturday. I really had hoped we could do it earlier so we could get into conference, get it completed, and send it to the President. That now appears not to be likely, unless the Senate wants to turn

right now to consider this very important supplemental appropriations resolution. I would like that to be considered.

Failing that, I think we are not going to object to agreeing to this unanimous consent request, but there are 35 amendments now—34 or 35. Some of them clearly are important to Senators involved on both sides of the aisle. Senator BOND has a couple of them. Senator BOXER has one I think she probably feels very strongly about. Senators CLELAND, ROBERTS, and others have amendments with regard to the B–1 bomber. Senator CONRAD, I haven't talked to him, but he has one on Turtle Mountain Indians. As you look down the list, some of them are not just relevant, some of them are amendments about which Senators are going to care greatly. And it looks to me as if you are talking about an extended period of time at this point to complete action on this legislation. I regret that.

If we could get an agreement to go to it now—I see Senator MCCAIN; I know he has an amendment he feels very strongly about—if we could do that now, maybe we could get some time agreements and move to completion.

I see the distinguished Senator from Alaska, the senior member of the Appropriations Committee on the Republican side, who wants to speak. I am glad to yield under my reservation, Madam President.

Mr. STEVENS. Madam President, I am here to urge that the Senate take the bill up now. I think if we took it up now, working with the people who have those amendments, we ought to be able to finish it today. I think if we finish today, the House will stay, and we could complete this before the recess. If we wait until Monday after the House has already gone home, it will be very difficult to get them back, even from the point of view of getting travel arrangements for the House to come back on Monday or Tuesday.

I cannot speak for the chairman, but I can say that we both have sought for the last 2 weeks to try to have this bill become law in time to meet the needs of the armed services. Very clearly, they have been demonstrated now. There is no question that if we do not get this bill passed, there is going to be an impact on the armed services. I will commit myself to both leaders to work with all Members to see what we can work out, to constrict the time and finish it tonight, if we can take it up now. That might put pressure on the other bill, too.

I urge that the organization resolution get resolved. I personally say to both leaders, my Kenai Peninsula is on fire. That is where I want to go fishing next week, too. So there is a disaster and the urgent call of the pink salmon to respond to.

I pledge myself to work even harder than Senator REID does to find some way to constrict this time so we can vote on this and get it to the House and bring it back so we can all vote on the bill before we go home. I plead with the leaders to let us have the reins for a few hours and see what we can do. I think we can finish this bill tonight.

Mr. LOTT. Madam President, under my reservation, I will propound as an alternative unanimous consent agreement the same proposal the majority leader has made, except that in the first paragraph under consultation with the Republican leader, I would add ''may proceed immediately to the consideration of Calendar No. 76, S. 1077.'' I make that in the form of a unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Madam President, reserving the right to object, I have offered this to our Republican colleagues now for several days. I have said, give me a definitive list that will allow us to finish our work on the Patients' Bill of Rights. We will proceed immediately to the supplemental, finish it, and then return to the Patients' Bill of Rights with the understanding that we will complete work on that as well.

Unfortunately, our Republican colleagues have been unable to do that. My offer still stands. Give me a definitive list that we can complete before we leave, and I will go immediately to the supplemental. I have offered it privately to Senator LOTT. I have offered it to our other colleagues. That offer still stands. Until we get that assurance, I will object.

Mr. LOTT. Under my reservation, I have one inquiry. I thought we had a definitive list. It may be big, but I thought we had a list of amendments still pending out there.

Mr. DASCHLE. I have not seen it.

Mr. LOTT. We will work on that.

The PRESIDING OFFICER. Is there objection to the original request?

Mr. REID. While the two leaders are here, if I may chime in, first of all, Senator DASCHLE has read the importance of this supplemental. If it is as important as has been read into the RECORD, it would seem to me the House should hang around a little while longer.

I say to the Republican leader and our majority leader, I haven't seen a list of amendments. Everybody knows we have just a few important amendments to finish the Patients' Bill of Rights. If we are given a list of amendments that is large in number, I don't think that is in keeping with what I think should be the general agreement to finish the legislation. If we are given a list of 10, 20, 30, 50 amendments, I suggest to the majority leader, that is not part of the deal. We have a few amendments left to go.

Mr. LOTT. If Senator DASCHLE will yield to respond briefly, I thought you had been given a list. I am going to make sure you have it and then we can evaluate that and work on it.

Mr. DASCHLE. Madam President, I offer a unanimous consent request that the Senate complete its work on the Patient Protection Act by 6 o'clock tonight, and we have final passage by 6 o'clock tonight. If we can agree to that right now, I will move to the supplemental at 12 o'clock this afternoon.

Mr. LOTT. Madam President, I object to that. Obviously, I have to consult with the managers of the legislation on our side about the amendment list, which is very long, and I have it now, and about what is possible in terms of completing it. I don't think it is possible at all to set an arbitrary time, in view of the very serious amendments that are pending on the Patients' Bill of Rights. So I object to that request.

The PRESIDING OFFICER. The original request of the majority leader is still pending. Is there objection?

Mr. STEVENS. Reserving the right to object, Madam President, I am constrained to say with due respect to the leader and the majority leader and majority whip, I find it very difficult to deal with the concept putting ahead of this supplemental the completion of two very controversial items. We know the House is going home, and having spent 8 years here on the floor as leader, I can tell you I have never seen the time when any Senate could dominate the House. We have a bipartisan agreement to go home. They have told me they will stay if we get this bill done and over there today.

I do believe that the interest of national defense should come ahead of concepts that we are dealing with here in terms of whether it is the Patients' Bill of Rights or organization of the Senate. We know people will be told they cannot train in July and August unless we get this bill done this week. It is not something on which we have been dilatory. We have been trying for a long time.

I have great respect for the leader and the assistant leader, but I cannot stay silent and have a concept that because the leader has stated these things must be done, they must be done before the supplemental is brought up. That is unacceptable to this Senator. I think it is unacceptable to the Senate. I hope it is.

I say with great humility now that the needs of our people in the armed services must come ahead of concepts of scheduling or prerogatives here on the floor. These needs are very real. We have twice held hearings now where the chiefs have told us what is going to happen if this bill is not signed by the President before the Fourth of July.

Even the concept of taking up and passing it now and letting it wait for the House to come back is unacceptable to me because, again, we all travel and we know you can't let the House go home and expect they will come back

here on July 3 just before the Fourth of July. You can't travel in this country that easy during that period.

So I plead with the Senate, let us proceed with this bill. We should put aside all other desires. There is no timeframe on the Patients' Bill of Rights that matters to this country. It is a bill that must be passed, and I am going to vote for it. But it does not have the urgency of this supplemental.

This supplemental deals with more than that. It now deals with matters that are emergencies coming out of the disasters that have happened in this country this spring.

I hope the leader will accept my comment that I mean no offense to him. I have served under several leaders, and I admire both Senator DASCHLE and Senator REID for what they are doing. But it is unacceptable to me to say no in terms of a request that has come on a bipartisan basis to put this bill aside for a few hours and pass a bill as important to the military of this country as is this supplemental.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, I remind my dear friend and colleague, the Senator from Alaska, in 1999, we took up the Patients' Bill of Rights under a unanimous consent request and passed it in 4 days, with 17 amendments. Now we are told we can't do it in 2 weeks. While we may differ on whether the supplemental is more or less important than the Patients' Bill of Rights, I would hope we could all agree that completing action before we leave on a supplemental dealing with the safety of our troops is a top priority. The Pentagon places an extraordinary priority on this legislation—so much so that the Commander in Chief called me to ask that it be done this week. Certainly we can agree it is more important than fishing or any other kinds of vacation we could be taking next week. While there may be some differences on other issues, I would think there would be unanimity that getting the supplemental done is more important than taking a vacation.

So that is what the issue is. We are not going to take a vacation until we have completed action on the supplemental. We are not going to leave until this is done. This is something that not only has been requested by the Pentagon but by the Commander in Chief as well; I would hope if the President makes additional calls, he will call the House and say: Don't leave until we get this done. You have heard the Pentagon. Don't leave until this is done. Vacations are secondary to work. We have to get it done.

I yield the floor.

The PRESIDING OFFICER. Has an objection been heard?

Mr. STEVENS. Reserving the right to object, that is a little bit of a cheap shot. I am not talking about a vacation. I am willing to stay here as long as any other Senator. I am talking about the realities of the House. Leader, I am not going to forget that. That was a cheap shot, and for the time being, I object to the request.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 831

The PRESIDING OFFICER. Who yields time on the amendment? The Senator from Missouri.

Mr. BOND. Madam President, I reserve the remainder of my time. I believe there is more time on the other side. I want to give the other side their remaining 19 minutes, but I believe we only have 2 minutes. I reserve those 2 minutes for the end of the debate, and I do have a couple of minutes after they have had an opportunity to present their case.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, with the consent of Senator KENNEDY, I yield myself such time as I may consume, recognizing the Senator from North Dakota wishes to be recognized. I will not take long.

Many years ago, before I came to Congress, I practiced law. I was a lawyer. I was a trial lawyer. I am very proud of that fact.

With that brief background, I received a call last night from a lifetime friend. I have not talked with him in a while, but we went to high school together. We played ball together. We were inseparable friends. He did not have my phone number. I had moved. He called my office and said it was urgent.

He called because his son was in trouble. Why? Because they had hired a cheap lawyer. His son was in trouble, and they hired a cheap lawyer. The young man is now in jail.

My friend from Missouri is a lawyer, a fine lawyer, I am sure. I refer to the pending amendment as the ''cheap lawyers amendment.'' You cannot find decent lawyers to take a case for 15 percent. Almost 50 percent of the cases in our Federal court system take 4 years to litigate, with files stacked as high as my desk. People work to prepare those papers representing people who are injured, hurt, and need an attorney. That is why we have contingent fees. It is hard to find lawyers to take even a good contingent fee case because they have to consume so much time and effort.

Of course, there are some people who are paid too much, I am sure, because they put in the time and it is a contingent fee. I sold my home in Virginia within the past year. The woman who sold my home was a good realtor. I tried to find the best I could. I signed a contract with her. She made a ton of money on my home. She worked about a week. I don't know, but she probably took a lot of time off during that week. My home sold in a week. She made a lot of money for the few hours she spent on my home, but that is the way America works.

If we have people who need help, we need to have the full panoply of lawyers available so they can get a good lawyer.

My friend from Iowa had a chart and peeled off medical bills: These people are going to get their medical bills. Well, isn't that too bad. If someone does something wrong, should they not pay your medical bills? Do you need to have a lotto, as he says, a lottery to get your medical bills paid? I hope not.

We have heard mentioned several times, if we are concerned about attorney's fees, how much are these attorneys for these big HMOs making to prevent people from getting medical care? Let's take a look at that.

We talk about these cases in the abstract, but the fact is that attorneys, whom everyone wants to hate, are necessary; they help. I am proud of the fact I was a lawyer. I have four sons. Every one of them is a lawyer, and I am proud of the fact that they followed in the footsteps of their father. My daughter is a schoolteacher. She married a lawyer. I am very happy for that.

We do not have to be shameful, concerned, or embarrassed about some lawyers getting paid a contingent fee. That is how people who are injured and hurt are allowed to take those cases.

Fifteen percent will discourage representation by good lawyers. My friends on the other side of the aisle talk about the sanctity of contracts. Why do we want to step in and tell States what lawyers can be paid based on a contract they get?

This amendment is only to protect HMOs, as all the other amendments from the other side, to try to derail this legislation. This amendment is a frivolous amendment. It has nothing to do with the merits of this legislation.

Mr. DORGAN. Mr. President, will the Senator from Nevada yield?

Mr. REID. I will be happy to yield to my friend from North Dakota.

Mr. DORGAN. The Senator from Nevada and I had a brief discussion previously about this issue. He is correct that this amendment attempts to limit the ability of patients to hold HMOs accountable.

The discussion by those on the other side who have offered this amendment talks about lawyers in a pejorative way on behalf of patients. Does the Senator know of any attempts by those who have offered this amendment to limit HMOs, managed care organizations, from using lawyers, or is this just saying we will limit patients from using an attorney to go after a managed care organization that did not provide the care they promised, but we will not limit managed care organizations from using attorneys to do whatever they want to do?

Mr. REID. Madam President, I answer as follows: Of course, there is nothing in the way of amendment to limit what attorneys for these wealthy, big, sometimes brutal HMOs are paid. But remember, I say to my friend, that people who are seeking help from a lawyer are looking for a lawyer who will do it not on an hourly basis but who will do it on what is called a contingent-fee basis. They have no money to hire one of the big HMO lawyers, so they look around and find somebody who will take their case on a contingent-fee basis.

I say to my friend, a 15-percent contingent fee will not get a good lawyer. It will be like my dear friend who called me last night. In effect, the client will not wind up in jail but will end up with no compensation.

Mr. DORGAN. I ask my friend from Nevada to yield further for a question.

Mr. REID. I will be happy to yield to my friend for a question.

Mr. DORGAN. Is it not the case that this entire process, this debate on the Patient Protection Act, is an attempt to balance things a bit; that patients do not have the ability to confront a big managed care organization?

The Senator from Nevada knows the story we have talked about coming from his State: Christopher Roe, a circumstance where a 16-year-old boy was fighting cancer at the same time he was fighting his managed care organization for treatment and care he needed. That is not a fair fight, asking a young boy to fight an insurance company and fight for his life at the same time. That young boy lost his life on his 16th birthday.

The question is, Do those patients and their families have the right to get an attorney to hold the managed care organization accountable to deliver the care they promised? Do they have that right?

We have an amendment pending that says: No, we are going to limit the rights of the patients, we are going to limit the rights of citizens, but we are not interested in limiting the rights of the managed care organizations because we want to stand for them rather than standing for patients, and that is the issue.

Mr. REID. In answer to my friend, I have a CRS report that talks about awards of attorney's fees by Federal courts and Federal agencies. It is big. I know of no other Federal attorney fee statute that affects a State system.

This amendment is wrong. I appreciate very much my friend from North Dakota, who is not a lawyer, standing up and speaking for the injured people and the potentially injured people of America.

Mr. KENNEDY. Madam President, I ask for 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I rise in opposition to the amendment that has been offered. We have seen the efforts of the HMOs to undermine this legislation in different ways over the last few years. We were unable to bring this matter up for consideration by the Senate and get full consideration of the bill when we wanted to. This happened even during the last term when a majority of the Members would have supported a good, tough, effective Patients' Bill of Rights. We have seen over the past days constant efforts to undermine this legislation.

We see another effort to try to appeal to the Members about the excessiveness of decisions made in the courts to reimburse individuals in terms of wrongdoing by other industries.

The fact is, as we are reminded by our colleagues, we have spent 3 days talking about the sanctity of the contract between the HMO and the patient. We have had amendment after amendment saying, look, this is enormously important. We do not want to permit any changes in that contract. We want to stick with that contract. We want to hold to that contract. Now with the Senator's amendment we are saying basically that we are going to ride roughshod over contracts that are decided, permitted, and authorized by law in the States between attorneys and their clients.

I have listened a great deal to talk about how Washington doesn't know best; how we don't want just one solution to solve all of our problems. We had that debate early this morning and last night. We now have one solution: to override States in terms of what decision the States make for compensation going to court.

The fact is, how many working families, and how many middle-income families are going to be able to go out and hire lawyers? For the time it will take to get some kind of recovery after they have been wronged, how many are going to be able to do that and follow this through the State courts? How many will be able to do it after they have been hurt, after their child has been disabled, after a wife or husband has been killed? How many? Very few. The fact is, they are not going to be able to be compensated unless they are able to convince a jury they are right, that there has been wrongdoing.

Does that bother people in the Senate? Evidently it does. There are only a very few Americans who can afford the high-priced lawyers to go into court and pursue this. This amendment undermines it for the rest of the people. It undermines it for working families, undermines it for middle-income families. That is the record. That is what has been done.

It doesn't surprise me. We have seen the powerful special interests overturn ergonomic regulations which were there to protect working families. Then we have the undermining of funding for the enforcement for protecting our air. There has been undermining of funding for protecting OSHA, effectively cutting back on the protection of workers. We are undermining regulations to protect workers, undermining the enforcement mechanism to protect consumers, and now they want to take this right away from individuals who will be harmed because of HMOs.

It is a common pattern. It is all targeted by the major financial special interests versus the consumer. That is what this is about. They don't like to hear about it. They keep offering amendments that are couched in other language about all the people that will be unemployed. However, it is the power of the HMOs against the little guy.

This amendment says the little guy will not be able to defend their interests in court. That is what this is about.

Make no mistake. They can't deal with us in giving protections to the consumers. They are going to take them away by denying them the rights to enforce them. That is what this is about.

Expect that after we have this percentage, it will go a little higher, and then try to go even higher. Every time it does, it is an insult to middle-income and working families and individuals who will be harmed. Make no mistake, it is another assault on the fundamental protections of this act. That is what this amendment is about. I hope it will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. How much time remains?

The PRESIDING OFFICER. The Senator from Missouri has 3 minutes.

Mr. BOND. I want to respond. Does the other side desire more time?

Mr. KENNEDY. I don't think so. It depends on what the Senator says. We don't intend to at this time.

Mr. BOND. How much time remains on the other side?

The PRESIDING OFFICER. Five and a half minutes.

Mr. BOND. I yield myself the remaining time. I think some of the things that have been said deserve to be answered.

Our efforts are not to undermine a bill but to deal with very bad provisions in the bill which skipped the committee, did not go through committee markup. We are marking up a bill now which we should have marked up in committee. It has come to the floor and we are a committee of the whole.

There are things that are in there that are very bad for patients, employees, particularly of small business. Why are we inserting the Federal Government into restricting attorney's fees? The States in this Nation have limited attorney's fees because they recognize the abuses of the trial lawyers. Under this bill, we are inserting

the Federal Government into areas that the States have already acted on, and they have acted on them and provided limits on the amount that trial attorneys can take so the injured party can recover.

We have heard about the powers of special interests. Let me state who the special interests are that have a big stake in this, the four top trial lawyer PACs: Trial Lawyers Association of America; Williams & Bailey; Ness, Motley; and Angelos Law Offices, have given over $8 million, more money than all the HMOs together have given in politics.

If you want to talk about special interests, there are special interests on the other side, as well.

We believe the measures we brought forth are good for employees, for people who not only want to be able to appeal the decision of an HMO, but they want to have health coverage.

Somebody suggests there have not been problems with fee structures. They are not in this bill. We know from the State experiences that there can be a tremendous amount of wasted money.

I urge my colleagues to support this measure.

I yield to my distinguished colleague from Tennessee.

Mr. FRIST. Madam President, I rise in support of the Bond amendment. This is a Patients' Bill of Rights and we should focus on the patient. We are talking about a patient who has been harmed or injured, gone through an appeals process and through the court. If there is a multimillion-dollar suit, it should be to help the patient, not to fund the pockets of the trial lawyers.

This is a Patients' Bill of Rights, not a trial lawyer bill of goods.

Mr. KENNEDY. Madam President, every time you pay the HMO lawyers, that comes out of patient protections. So the point raised is, if you put a limitation on the trial lawyers because they are going to get the benefits, why not put a limitation on the attorneys for the HMOs so it doesn't come out of patient protections?

But they won't do it. They won't do it.

I yield the remainder of our time.

Mr. REID. What is the matter before the Senate now?

The PRESIDING OFFICER. Amendment No. 831.

Mr. REID. All time is yielded back?

The PRESIDING OFFICER. Time has been yielded back.

Mr. REID. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—62

Akaka	DeWine	Lincoln
Baucus	Dodd	McCain
Bayh	Domenici	Mikulski
Biden	Dorgan	Miller
Bingaman	Durbin	Murray
Boxer	Edwards	Nelson (FL)
Breaux	Feingold	Nelson (NE)
Byrd	Feinstein	Reed
Cantwell	Graham	Reid
Carnahan	Harkin	Rockefeller
Carper	Hollings	Sarbanes
Chafee	Inouye	Schumer
Cleland	Jeffords	Shelby
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Thompson
Conrad	Kohl	Torricelli
Corzine	Landrieu	Warner
Crapo	Leahy	Wellstone
Daschle	Levin	Wyden
Dayton	Lieberman	

NAYS—38

Allard	Gramm	Murkowski
Allen	Grassley	Nickles
Bennett	Gregg	Roberts
Bond	Hagel	Santorum
Brownback	Hatch	Sessions
Bunning	Helms	Smith (NH)
Burns	Hutchinson	Smith (OR)
Campbell	Hutchison	Snowe
Craig	Inhofe	Stevens
Ensign	Kyl	Thomas
Enzi	Lott	Thurmond
Fitzgerald	Lugar	Voinovich
Frist	McConnell	

The motion was agreed to.

Mr. KENNEDY. 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.

The PRESIDING OFFICER. The Senator from Nevada.

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

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued the call of the roll.

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

The PRESIDING OFFICER. Without objection it is so ordered.

AMENDMENT NO. 833

Mr. WARNER. Madam President, in consultation with the managers of the bill, it has been indicated to me this will be an appropriate time for this amendment to be raised. I send it to the desk and ask that it be given immediate consideration. However, we have to set aside, as I understand it, the standing order with regard to the Snowe amendment. I first ask unanimous consent that it be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object—and I will not object—we have been in consultation for the last hour or so. Senator SNOWE of Maine is in the process of having her amendment drafted. She is a half hour away from being able to present something in writing that we can give to the Senator from New Hampshire. I have no objection.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 833.

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

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

The amendment is as follows:

(Purpose: To limit the amount of attorneys' fees in a cause of action brought under this Act)

On page 154, between lines 2 and 3, insert the following:

''(11) LIMITATION ON AWARD OF ATTORNEYS' FEES.—

''(A) IN GENERAL.—Subject to subparagraph (C), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys' fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action) may not exceed the sum of the amounts described in subparagraph (B).

''(B) AMOUNTS DESCRIBED.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

''(i) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of attorneys' fees awarded may not exceed an amount equal to ⅓ of the amount of the recovery.

''(ii) With respect to a recovery in such a cause of action that exceeds $100,000 but does not exceed $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 25 percent of such excess recovery above $100,000.

''(iii) With respect to a recovery in such a cause of action that exceeds $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 15 percent of such excess recovery above $500,000.

''(C) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of an award of attorneys' fees required under subparagraph (A) as equity and the interests of justice may require.

On page 170, between lines 21 and 22, insert the following:

''(9) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, subject to subparagraph (B), a court shall limit the amount of attorneys' fees that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of attorneys' fees that may be awarded under section 502(n)(11).

''(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of attorneys' fees allowed under subparagraph (A) as

equity and the interests of justice may require.''

Mr. WARNER. Madam President, I will do something unusual. I am actually going to read the amendment myself such that colleagues and those observing floor operations from their offices can have a clear understanding of exactly what is in the amendment.

Further, I do not desire to consume a great deal of time in the debate because we have just had a very thorough debate on the generic subject of attorney's fees. Therefore, the Senate has pretty well framed in their minds the parameters in which they will or will not accept an amendment that has the effect of, in my judgment, preserving a reasonable amount of attorney's fees and at the same time allowing such awards as those attorneys obtain for their clients to be given; again, with the thought that it is a Patients' Bill of Rights and they have a right to get a reasonable amount of such recovery as is obtained from them.

I shall read from the amendment—it is very short—and say a few words, and then rest my case:

On page 154, insert the following: Limitation on award of attorneys' fees——

(A) In general.—Subject to subparagraph (C), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys' fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action)—

In other words, that would be awarded by the court without any restriction except to the court itself——

may not exceed the sum of the amounts described in paragraph (B).

The sums I am about to recite, we carefully researched all types of actions similar to this to get a scale of attorney fees which I felt was clearly reasonable.

(B) Amounts Described.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

(i) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of the attorneys' fees awarded may not exceed an amount equal to one-third of the amount of the recovery.

In years previous to coming to the Senate and other various jobs, I was actually a member of the bar and practiced law. I was assistant U.S. attorney in a modest trial practice myself. That has sort of been a standard for many years in the bar, the one-third.

(ii) With respect to recovery in such a cause of action that exceeds $100,000 but does not exceed $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 25 percent of such excess recovery above $100,000.

(iii) With respect to recovery in such a cause of action that exceeds $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 15 percent of such excess recovery above $500,000.

(C) Equitable discretion.—A court in its discretion may adjust the amount of an award of attorneys' fees required under subsection (A) as equity and the interests of justice may require.

In other words, a judge may look at this fee schedule and decide, this particular counsel has done a great deal of work and, therefore, I believe I should raise his fee within the parameters of the section itself.

Further:

(9) Limitation on Attorneys' Fees.—

(A) In general.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, subject to subparagraph (B), a court shall limit the amount of attorneys' fees that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of the attorneys' fees that may be awarded under section 502(n)(11).

(B) Equitable discretion.—A court in its discretion may adjust the amount of attorneys' fees allowed under subparagraph (A) as equity and interests of justice may require.

This amendment simply sets, in my judgment, a reasonable category of fees. I have tried, as best I can, not to tread, by virtue of States rights, on the right of the State to administrate its own bar and the like. I felt that discretion should be given to the trial judges, Federal and State, such as they can adjust that schedule of fees as they see fit.

The Senate, again, has, in a very thorough discussion under the Bond amendment, covered these issues and has in mind, again, its own framework wherein we can legislate on this matter by amendment or not legislate.

At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Madam President, I thank the Senator from Virginia for his efforts. I think there is an agreement that there needs to be a cap on attorney's fees. It is my strong sense and belief that if we had a cap of 33.3 percent that applied to Federal and State courts, that would be accepted by the majority of this body.

What I worry about is us just going back and forth with escalating amendments. There are very few benefits of old age. One of them is to remember what happened in the past. When we were doing the tobacco bill, we had amendment after amendment, a series of amendments, on caps on lawyer's fees. It got a little ludicrous. We finally had a majority vote for $1,000 an hour. It was clearly not an effort at legislating, but it was an effort at some kind of political advantage. I know that is not the intention of the Senator from Virginia.

I hope that once this is debated and, if it is not accepted, that perhaps we could move to an amendment after Senator Snowe's amendment that would be around 33.3 percent, State, Federal court, end of it. That is going to make everybody unhappy, but I think it would be something that we could all support and then get this issue off the table and get to the very important issues such as resolution of exhaustion of appeals that Senators THOMPSON and EDWARDS are working on, liability issues. Senator FRIST has some important amendments, again, on liability issues, which we are narrowing down.

Hopefully, we can move forward. I thank the Senator from Virginia for his input.

Mr. WARNER. Madam President, if I might reply to my friend and colleague, there was no intention of the Senator from Virginia to repeat what is an historically important case on tobacco. I studied that case very carefully. There were, I think, three votes. My recollection is it was $4,000 per hour, at which time the Senate finally accepted. I would not participate in such a process. I just struck the one-third for the lower amounts of the recovery and basically scaled it to 25 and the other percentage as the rate of recovery increase. I would be happy to work with colleagues.

It goes to the question of just how much will be eventually given to the recipients who need these funds.

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

Mr. WARNER. Yes, of course.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The Senator from Arizona and the Senator from Virginia are on the right track.

This amendment, with all due respect to my dear friend from Virginia, is really—we have another 15-percent limitation in here above a certain amount. I think that the most expeditious thing to do would be to set this aside, for the time being, and get some of the lawyers and nonlawyers to sit down and see if they can work out something acceptable to the managers. I am sure if it were acceptable to the managers, we could accept this.

I ask my friend from Virginia, who believes he has talked enough on this, that we withdraw this amendment, for the time being, in anticipation of working something out that is clear and more concise.

Mr. WARNER. That is exemplified by the leadership the Senator shows time and time again on this floor. I don't view this as a partisan issue. This is an honest effort by the Members of the Senate to recognize that individuals should be given their rewards and the attorneys should be given fair compensation. Therefore, Madam President, unless other Senators wish to speak at this time, I will——

Mr. MCCAIN. If the Senator will yield, I say to my colleague from Virginia, if the outcome of this amendment is not to the Senator's satisfaction, then I hope we can enter into negotiations that on a reasonable level—again, I just plucked 33⅓ percent because it is in there in one category, across the board, simple, two lines, and perhaps we can move on.

I know the Senator from Virginia, as well as the rest of us, doesn't want to be hung up on a series of votes that are iterations over the same issue. It seems that we can sit down and come to some reasonable agreement, which the other side of the aisle would strongly resist applying to State court, and this side would resist it on Federal court. It is something to have a substantial majority vote for. I hope the Senator agrees to enter into those negotiations.

Mr. WARNER. Madam President, I ask for the yeas and nays before I take the action.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. REID. Madam President, if the Senator really wants a vote on this, we will be happy to give it to him right now. I don't think it is the right thing to do. I suggest to the manager and my friend from Virginia, why don't we set this aside for a few minutes to see if we can work something out to get the matter resolved. I think as the Senator from Arizona indicated——

Mr. WARNER. I am agreeable. I ask unanimous consent that this amendment be set aside.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. REID. Madam President, it is my understanding, under the order that is in effect, we will go to the Snowe amendment with the purpose of offering the amendment under a 4-hour time agreement.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Maine.

AMENDMENT NO. 834

(Purpose: To modify provisions relating to causes of action against employers)

Ms. SNOWE. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON of Nebraska, Mr. SPECTER, and Mr. MCCAIN, proposes an amendment numbered 834.

Ms. SNOWE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The text of the amendment is located in today's RECORD under ''Amendments Submitted.'')

Ms. SNOWE. Madam President, I rise today to offer an amendment along with my colleagues Senator DEWINE, Senator LINCOLN, and Senator NELSON, who worked so hard, so diligently in crafting this compromise. Senator MCCAIN and Senator SPECTER are coauthors of this amendment as well.

The amendment we are offering today is designed to bridge the gap that exists between the supporters of the McCain-Edwards-Kennedy approach to employer liability in the Breaux-Frist-Jeffords bill.

I commend Senators MCCAIN, EDWARDS, and KENNEDY for their willingness as well as their patience to work with us on resolving the many issues that are associated with employer liability.

Everyone involved has had the same goal essentially, and that is to protect employers from liability when they are not participating in making decisions concerning the health care of employee beneficiaries.

The discussion has really focused on how best to achieve that goal. This is an incredibly complex liability issue that has far-reaching consequences, and everyone who has been part of this discussion and this effort to reach this consensus recognizes that fact and has worked in good faith to arrive at a solution that we can live with and, more importantly, employers can live with and not denying care that patients rightly deserve.

This is an issue that is significant on a number of different levels. First of all, to what extent will employers that voluntarily offer health insurance be exposed to liability. To what extent will employers be involved in the decisionmaking process in terms of the provisions of health care for their employee beneficiaries, and perhaps more important, will patients have legal recourse should they have a grievance concerning the care they receive through their health care plan.

The goal we all share in designing and crafting this amendment to the McCain-Kennedy-Edwards legislation is how best we protect patients for their medical care without creating an expansive bureaucracy adding to the cost of providing that health care and generally creating an incentive to drive away employers from providing health care insurance to their employees which, as I said earlier, they do so on a voluntary basis. We should be commending employers for providing these benefits, not penalizing them.

We should also take great care to write a provision under which employees remain insured through their employers, while also protecting the employees' rights under their health insurance plans. What we do not want to do is create unintended consequences for employers by leaving legal questions open that can leave employers exposed to liability over matters in which they have no control and over matters in which they have not participated and having the resulting decision.

That is all the more significant when we realize there are more than 43 million Americans who remain without any insurance, and of those who have insurance, employers voluntarily provide health coverage to more than 172 million Americans. Obviously, what we do today is significant, and it will matter.

We cannot afford to have employers suddenly opting out of providing insurance to their employees because we do not want to create the unintended consequence that adds to the rolls of the uninsured in America. I think that is something on which we all can agree, and that is a very real risk. In fact, there was a recent poll taken of businesses in America, and it said that 57 percent of small businesses said they would drop coverage rather than risk a lawsuit.

As one businessman in my State wrote to me recently:

> We're not an HMO or an insurance company. We are an employer. We cannot afford the time, expense, and aggravation of litigation. And, please, make no mistake, that is what this is about.

So we approach the issue of reconciling the differences between the two approaches by addressing the question: What language will deliver us to that mutual goal? We assess what was really the best qualities of the McCain-Edwards-Kennedy legislation, as well as the Breaux-Frist-Jeffords issues.

Ultimately, the solution we came to was a melding of the two approaches. The result was to provide employers with varying levels of liability protection depending on their involvement in the decisionmaking process but regardless, patients will have the legal recourse they deserve, no matter what.

There are many other issues that need to be resolved in this legislation. I realize this represents one facet, the liability question, that has been raised by others with respect to this legislation, and this is not intended to address all of those questions, but clearly it does address a most important issue when it comes to subjecting employers to litigation and liability.

Let me take a moment to explain the differences between the McCain-Edwards-Kennedy legislation and the Breaux-Frist-Jeffords approach and the approach we are taking in the amendment we have offered to S. 1052 and

how our amendment affects the underlying legislation and addresses the concerns that have been raised about the net legal impact on employers.

Essentially, there are several categories we are attempting to address today when it comes to employer-sponsored health care insurance.

First, there are employers that contract with an insurance company that, in turn, pays beneficiary claims and administers the plans and the benefits.

Second, there are employers that fund a plan but leave the actual administration of the plan to an outside entity, generally an insurance company.

Third, there are those who both self-insure and self-administer, in essence creating their own insurance company within their existing business.

The McCain-Edwards-Kennedy legislation as written allows a suit against any employer if it directly participates in a decision that harms or results in the death of a patient. Direct participation is defined as the actual making of a medical decision or the actual exercise of control in making such a decision or in the conduct constituting the failure.

The bill then goes on to offer specific circumstances that do not constitute direct participation, including any participation by the employer or other plan sponsor in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent, or any engagement by the employer or other plan sponsor in any cost-benefit analysis undertaken with the selection of or continued maintenance of the plan or coverage involved.

While the bill language does not provide an exhaustive list of exceptions, it does allow an employer to offer into evidence in their defense that they did not directly participate in decisions affecting the beneficiaries of the health care plan.

That suggests while employer protections would be provided under the legislation, an employer would still have to go to court to make its defense. As with any such legal language, direct participation obviously can be open to legal interpretation, and that precisely is the circumstance which we are seeking to avoid and prevent.

Under the Breaux-Frist-Jeffords legislation that was introduced, the language provides for a designated decisionmaker, or DDM, which in most cases would be the insurance company an employer contracted with to be the party that is liable for medical decisions and, therefore, the party could be subject to liability. In other words, the employer would designate the DDM as the responsible party to shield itself from that liability. If an employer chose not to designate a DDM, they would have no protection from that liability.

An argument that has been made against the Breaux-Frist-Jeffords language is if the DDM is a person designated within a company that self-insures, for example, they could under the employment law attempt to escape liability by claiming that ultimate decision came from the employer; that they, as a DDM, did not make a final decision on a particular beneficiary's case. In an effort to improve the Breaux-Frist-language, we designate that when a contract is signed with the employer, the DDM cannot mount any such defense, that somehow they defer the liability, defer the suggestions that the employer somehow participated in making the decision.

In an effort to improve the employer liability provisions, we encompassed key provisions of both models in the legislation while addressing their inherent weaknesses so we can attain our shared goals.

First, our amendment allows employers that turn their health care coverage to outside insurance companies, that their insurance company will automatically be their designated decisionmaker unless they specifically choose not to have a DDM. This is built directly on the Breaux-Frist-Jeffords model in which the decisionmaking authority shifts to the DDM, which will in most cases be the insurance company. Under this approach, an employer would not have to take the extra steps to secure a designated decisionmaker and would not be required to go to court to file papers or to make defenses against any actions they may have taken. In other words, they would not have to do anything different than what they are doing today with a contract with an insurance company.

When they sign up with an insurance carrier that will provide benefits to their employees and administer the benefits, they are then signing up with, essentially, a designated decisionmaker, and they are signing up as well for a safe harbor from liability in both medical as well as contractual decisions.

Where we depart from the existing Breaux-Frist language is we clarify since the DDM, which is also the insurance company, has assumed full responsibility at the time the employer and the insurance company signed a contract, the designated decisionmaker would be prevented from turning around and assigning the employer for some failure that resulted in a lawsuit from a beneficiary. In other words, the dedicated decisionmaker can't transfer liability to the employer because of something the employer does or failed to do.

The legislation we have introduced today to modify the McCain-Edwards-Kennedy legislation delineates specifically that the dedicated decisionmaker is responsible for a contractual arrangement as well as exclusive authority for any medically reviewable decisions.

For employers that choose not to have a dedicated decisionmaker, for whatever reason, and for those employers that prefer to continue to be self-insured but contract out the administration of their health care plan, we leave in place the general McCain-Edwards model in the underlying bill that protects employers insofar as they do not directly participate in the medical decisionmaking process.

Again, as I outlined earlier, direct participation is defined as the actual making of a medical decision, the actual exercise of control in making such a decision or in the conduct constituting the failure. These are two of the changes we have made in the amendment we are presenting today from the underlying McCain-Edwards legislation.

In our amendment, we eliminate one element of the bill that would have potentially led to the filing of lawsuits on a variety of grounds unrelated to specific medical decisions impacting individual beneficiaries. The language is, in layman's terms, broad and nonspecific and potentially exposes a defendant to a wide array of nonlegal actions. If additional grounds for lawsuit should be added to the legislation, we should delineate and specify them and not have broad language that essentially leads to a legal potpourri.

Striking this language does not affect the ability of the patient to seek remedy in court for medical decisions made in their particular circumstance. But it does prevent a whole new arena of lawsuits from being created that would heighten an employers' exposure to liability.

In addition, our amendment also modifies the underlying legislation to ensure that self-insured, self-administered plans, employers, and union health care plans will not be subject to lawsuits under Federal law simply because of contractual disputes. This change is critically important when considering that self-insured, self-administered plans do not have the ability to assign liability to a dedicated decisionmaker. As a result, they may opt to simply stop offering insurance for employees altogether rather than risk a substantial judgment on a contractual matter. That is a result, again, we simply cannot afford if we are going to ensure that people have the kind of health insurance plans in America in which they will continue to be insured, and that employers are the ones providing predominantly the health insurance in America today.

To describe our amendment in another way, we essentially are saying as an employer that is not self-insured, you can hand over all your decisionmaking and therefore your liability to a dedicated decisionmaker which will, in all likelihood, be your insurance company when you sign your contract with your insurance company. There is

nothing more you need to do to protect your business from liability for the decisions that are made.

For the self-insured and for those who do not self-insure as an employer, you would still have the protections afforded under the underlying legislation if you don't directly participate in those decisions. In other words, employers who contract out their health insurance have a clear choice under our amendment, although once again I stress that under this amendment patients will still have the legal recourse regarding questions over appropriate medical care and medical decisions related to the beneficiary's plan, no matter which option the employer chooses.

The bottom line is we seek to protect employers from liability in cases where they are not making the medical decisions that harm patients or result in death while still protecting parents rights, which after all is the goal of this legislation.

Finally, let me assure my colleagues, under this amendment, dedicated decisionmakers would have to demonstrate they are financially capable of fulfilling their responsibilities as the party liable in causes of action. They could not be shell entities or sham individuals or organizations without the ability to actually pay the event of lawsuits.

The criteria the Secretary of Health and Human Services will require relating to the financial obligations of such an entity for liability should also include an insurance policy or other arrangements secured and maintained by the dedicated decisionmaker to effectively insure the DDM against losses arising from professional liability claims, including those arising from service as a designated decisionmaker. A DDM would have to show evidence of minimum capital and surplus levels that are maintained by an entity to cover any losses as a result of liability arising from its service as a designated decisionmaker. It would have to show that they themselves have coverage adequate to cover potential losses resulting from liability claims or evidence of minimum capital and surplus levels to cover any losses.

Once again, I think we have designed an amendment that represents a workable approach, that addresses some of the more serious and significant concerns that had arisen in the various pieces of legislation that had been introduced here in the Senate and with the underlying legislation we are seeking to amend today.

We try to meld the best of both approaches, to balance the concerns of businesses that do seek to voluntarily provide this most important, critical benefit to their employees. That is an incentive we want to maintain and reinforce in every possible way. But we also understand there are going to be those circumstances in which the employee has received inappropriate care that has resulted in significant harm, injury, or even death, and that they should have the opportunity to seek legal redress for that inappropriate care or denial of care. That is the kind of consideration we want to ensure in this legislation, without creating the unintended consequences or the disincentive for employers to say we just simply cannot afford to provide this health insurance for our employees anymore because we are going to be subject to litigation, to endless losses, and we do not want to put ourselves in the position of that kind of exposure.

I think this approach has been examined on both sides of the political aisle. More important, I think it has been embraced by this bipartisan group in the Senate, my colleague Senator DEWINE, who has worked so hard, Senator LINCOLN whom I see on the floor, and Senator NELSON. They have worked very diligently on behalf of this amendment to assure that we address all facets, all potential implications and ramifications associated with this approach, to hopefully address it in a way that will ultimately yield the best effect for both the employer as well as the employees.

I yield the floor. I will be glad to yield time to my colleague.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, let me thank my colleagues, Senator SNOWE and Senator LINCOLN, whom I see on the floor, and Senator NELSON, who have worked long and hard on this amendment.

The issue in front of us today is how do we help shield businessmen and businesswomen from liability at the same time providing access to the courts for people to sue HMOs. Everyone I think agrees, one of the things we worry about as we deal with this legislation is that we will do something that would cause businesses in this country to decide not to insure employees. That would be a very bad unintended consequence, so we have to be very careful as we write this legislation.

The amendment in front of us today is really a compromise. It is a compromise based on the Frist-McCain bills. It is a compromise on the issue of employer liability, how we best protect the employers while at the same time ensuring people their right in court. I think we have really blended these bills. I think we have the best of both worlds. The situation and the language are clarified and made simpler.

We started this debate with some basic principles on which everyone agreed. In both bills we agreed we wanted to try to protect businesses but at the same time we wanted to allow suits in limited circumstances against HMOs. The President agreed to that principle, and the two underlying bills do as well. This amendment, I believe, achieves that. This amendment effectively takes out 94 percent of businesses and provides them great protection. When you compare our amendment versus the underlying bill, it helps and improves the situation for the other 6 percent. We will talk about that in a moment.

My colleague from Maine has talked about this concept of the designated decisionmaker. What do we mean by that? What we mean is let's just make it simple and let's make it plain; let's have the employer say who is going to make those decisions and therefore who will be sued. In essence, what we are saying is once that decision is made, that employer is no longer going to be subject to suits; the designated decisionmaker will be.

How will this work in the real world? Let's say we have a small hardware store in Greene County, OH. Let's say they employ 12 people, and let's say what they do is they provide some health insurance and they do that by going out in the market, finding the best deal they can, and buying this group coverage for their 12 employees. Under this amendment, once they contracted with that insurance carrier, they would have automatically made that designated decisionmaker decision. They would have designated that automatically, that group as being the designated decisionmaker. They would have to do nothing. They cannot make a mistake. It takes no affirmative action on their part. That is going to improve the language we have in front of us.

The other way of doing it, the way the underlying bill did it, was to talk about direct participation. Frankly, I think the language in the bill was pretty good. But I think it needs to be improved. By having the designated decisionmaker, it is a lot more clear. What will happen as a practical matter is this. As we all know, anybody can sue anybody. We cannot prevent suits, but we certainly can discourage them, and we certainly can provide when suits are filed against a business, the business has the ability to get out of that lawsuit very quickly. So by using the concept of the designated decisionmaker, as a practical matter, if a suit were brought against a businessperson, if a lawyer were foolish enough to file that suit, the business would simply have to go into court and file a copy of that designated decisionmaker decision and would be dismissed from the case. As a practical matter, this language significantly improves the underlying bill and will make a big difference.

Our amendment does build on the two bills in front of us, the two bills we have been talking about and have been considering, the Frist-Breaux bill and the underlying bill we have in front of us today, the McCain-Kennedy bill.

I believe our amendment would protect business owners from needless lawsuits as well as protect patients who rely on employer-sponsored health care plans for their medical needs. I believe this amendment brings together the best of all worlds by providing certainty, much-needed certainty to employers, employees, and, yes, to health care providers. That is something we desperately need in any patient protection bill.

Based on the designated decisionmaker concept in the Frist-Breaux-Jeffords bill, our amendment would automatically, as I have indicated, remove liability from small business owners and shift it to health care providers or other designated entities. In addition, our amendment stipulates this designated decisionmaker must follow strict actuarial guidelines and be capable of assuming financial responsibility for the liability coverage. This means the designated decisionmaker could not be a hollow shell, unable to come up with the money, the assets, to defend against potential lawsuits and financial damages and be able to satisfy those losses. Our language ensures that the designated decisionmaker cannot be a straw man, cannot be a sham that has no ability to pay a patient in the event a lawsuit is filed and that damages are in fact awarded.

In creating the designated decisionmaker process, it makes it easier for employers that provide health insurance coverage to be protected.

We think that is a major step forward for businesses, and especially for patients.

I say that because the fear of being sued often becomes so great that employers simply stop offering health care coverage. We don't want that to happen under this bill. We simply can't let that happen. The reality is in this country that already there are more than 42 million Americans, including 10 million children, who have no health care coverage. The last thing we want to do is add to this number.

Our amendment greatly diminishes the likelihood that employers will stop offering health care coverage. Again, we believe it is the best of both worlds as it allows patients the ability to sue the designated decision maker if they are denied medical benefits to which they are entitled by their health plans. But at the same time it protects employers from unnecessary and costly lawsuits.

Under our amendment, employees would have the comfort of certainty and the comfort of knowing that the designated decisionmaker is ultimately responsible for health care decisions and, therefore, that individual or that entity bears the liability for a lawsuit.

In another effort to keep employees insured, our amendment also adds language to the underlying McCain-Kennedy bill to limit the liability of businesses to self-insure and self-administer their health care plans. The fact is that these employers are assuming additional risk by financing and by administering health care coverage to employees. To that extent, I believe we must take their unique circumstances into consideration. This amendment does that.

Ultimately, our objective is to encourage employers to offer and to continue to offer their employees health care coverage. We don't want to discourage them out of fear that they will be sued.

The reality is that these self-insured and self-administered plans are doing some very good things for their employees. We want them to continue to do these good things. Our amendment will help them keep their employees, their families, and their children insured. That is what the Patients' Bill of Rights should be all about.

Further, our amendment improves the original Frist language by making very clear exactly who is liable. The amendment leaves no room for ambiguity because it would not allow the designated decisionmaker to be broken into sub-decisionmakers. One, and only one, entity would be the sole bearer of liability. We think that is an improvement.

Finally, our language would strike vague and ambiguous language in the underlying McCain-Kennedy bill that is of great concern to employers. This language is a catch-all section of the bill that could open employers to a flood of lawsuits simply because of the imprecise nature of the language.

Let me read the exact language currently in the Kennedy-McCain bill in regard to the cause of action relating to provisions of health benefits. There is the (ii) section. This is what is in the underlying bill:

> Or otherwise fails to exercise ordinary care in the performance of the duty under the terms and conditions of the plan with respect to the participant or beneficiary.

We believe this language is simply too vague. We eliminate it in regard to businesses and their potential liability.

This language that I just quoted creates an explicit cause of action. This means employers could be the subject of lawsuits that none of us currently has any way to anticipate. The language is broad. It is too broad as currently drafted. Our amendment would completely remove this section.

Finally, I think we must recognize what this amendment does, but also we need to be very clear about what it does not do. Does this amendment solve every problem with this bill? The answer is that it does not. It does what we have said it does. It deals with the heart of the liability problem in regard to businesses, but it does not solve all the problems.

I think it is important for us to have truth-in-labeling with this amendment. It is a good amendment. It is a probusiness amendment. It is an amendment that will encourage business men and women to do what we want them to do, which is good public policy, to insure their employees. It will give them important protections. It will give them more assurances.

That is why we ought to pass this amendment. It is a significant improvement over the underlying bill that is in front of us.

But it does not solve all the problems. It only deals with a portion of the pie. It does not deal with the caps issue. It does not deal with where the lawsuits should be brought and the issue of whether they should be brought exclusively in the Federal court or in the State court. It does not deal with the class action question, about which I am very concerned. And I know my friend from Tennessee has been working on this issue as well. It does not deal with the class action issue. I intend to have an amendment later today or tomorrow in regard to the class action issue.

We want to say what it does. It helps businesses do the right thing. It encourages people to continue to insure their employees. But there are many things it does not do.

I would be more than happy to yield to my colleague.

Mr. GREGG. Madam President, I appreciate the Senator's effort. I haven't had a chance to digest all of it. I understand the intent and the thrust as described by the Senator from Ohio, which I think is appropriate and good.

As I look at the first section, I am wondering. It appears to me that under the definition section it draws union plans in, and they are being given a special status which is really higher than a self-employed plan is given. I am wondering why union plans are suddenly being raised to a special status under the amendment.

Mr. DEWINE. I would be more than happy to answer the question.

In the original language that we have been negotiating for the last few days, we could not figure out any way to really help the roughly 6 percent of businesses that self-insure and self-administer.

My colleague Senator LINCOLN has brought to our attention and businesses have brought to our attention the fact that this amendment as originally written really did not help those 6 percent. Why? Why originally didn't it help? The basic problem is they do make medical decisions. They are really effectively operating as their own HMO.

We thought about how to protect them and give them some help while at the same time preserving their employees' rights to sue just as everybody else has. We came up with a compromise. My colleague Senator LINCOLN may want to get involved in this and explain it a little bit. But basically it

says for those self-insured, self-administered plans, we carve out a special exemption for them because of the special status. We say they are excluded and exempted from lawsuits brought in the Federal court on the nonmedical decisions based on the contract decisions. That is a break they are getting. We think it can be justified by what they do because we want to encourage them to continue to do what they do.

Why is the other group that you have mentioned included? They are included because they operate basically the same way the self-insured, self-administered businesses do. They basically take the risk. They basically make the medical decisions.

I appreciate the question, but I would disagree with my colleague the way he has categorized it. This is no special break for unions. This is treating people who operate the same way the same way in the language. I cannot come up with any way to justify carving them out and not giving them the exception because they are operating under the same principles that they are basically self-insured and are basically making the medical decisions, and doing it the same way.

So when you compare apples to apples, you ought to treat them the same. That is why we did it. We think it is justified. We think it makes sense. The option, candidly, would be not to give the 6 percent of businesses this break, not to give them the encouragement to try to get them to continue to do what they are doing. But we came to the conclusion that we should try to help them. We are not helping them immensely, but we are helping them.

Mr. GREGG. If the concept here is to treat everybody in the basket the same, then you have not necessarily done it, because union plans do use third-party administrators and therefore can designate, and a single-employer plan would therefore be more identifiable with the union plan. Yet, under your proposal, the single-employer plan basically is still liable. And that is 56 million people, by the way. Fifty-six million people fall into that category.

So you have exempted out the Wal-Marts of the world, maybe, that allow people to go out and get their health care, and then they come back and get their approval. And that exemption makes sense, but that exemption is not consistent with what unions do. So don't come here and represent to this Senate that it is because it is not. You have raised the unions to a brand new level of independent liability protection. So please do not make that representation.

Mr. DEWINE. I will reclaim my time. I thank my colleague for his comments.

The intention of the language is to treat people equally. If a union does in fact make the medical decisions and if they are operating in the same way that the Wal-Marts of the world are, they ought to be treated the same way. If they are not operating the same way, then they should not be treated the same.

Ms. SNOWE. Will the Senator yield?

Mr. DEWINE. Yes.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. The Senator from Ohio is exactly correct. We are treating all employers the same. In this instance, in this particular category, it is those employers who do not have a designated decisionmaker. That is the intent of this particular provision: To treat them equally so they are not subjected to liability when it comes to contractual matters, whereas other employers are not who contract with insurance companies and have a designated decisionmaker. That is what the intent is of this legislation. It is to treat them all equally and to draw that bright line.

We could say, let's not address the self-insured and self-administered programs. I do not think that is fair either because, obviously, they have a different kind of program, and we want to encourage that. We commend them for the kind of benefits they are providing their employees. They happen to be large employers, and they want to design their own internal program. But we don't want to subject them to litigation to which other employers are not going to be subjected. So that is the reason for the intent of this particular provision that happens to include union plans that are designed similarly.

Mr. FRIST. Will the Senator yield?

Mr. DEWINE. I am more than happy to yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. This is an important point, and therefore I think the colloquy is important so we can address it.

We have just seen the language for the first time a few minutes ago. The way I understand it, we have about 170 million people out there we are talking about in an employer-sponsored plan. There are about 6 million people who are in what are called self-insured, self-administered plans. Over the last 2 to 3 years, as we have tried to figure out how to treat these 6 million people in a fair way, we have struggled because it is hard. We have produced the designated-decision-maker model—which I am a great believer in; and I believe most people in this body, if they step back and look at it, are great believers in—but what you have in your bill is you have carved out those 6 million people and addressed the issue directly, but in addition to that, you carve out the unions.

The argument that was made is that the unions are self-insured, self-administered plans like the other 6 million; that these are union plans, and therefore they should be treated the same as self-insured, self-administered plans.

I think the Senator from New Hampshire and I would argue that the unions should not be carved out as well because—while a few may be self-insured and self-administered—the majority of the union plans are not self-insured and self-administered. Therefore, why are you giving this privileged position to the unions that are not self-insured and self-administered like the 6 million whom you targeted initially? That is the question I think the Senator from New Hampshire and I wish to ask you, because we like very much more the designated-decision-maker model.

I guess the question is, Are you contending that the union plans that you carved out are self-insured and self-administered plans?

Mr. DEWINE. If I could reclaim my time to answer the question.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I can tell you what the intent was. And, as you know, we have been drafting the language, and it has been going on and on. I can only tell you what the intent was.

I am more than happy to take a minute and look at that language again with your comments in mind.

The intent was to treat people who operated one way equally. In regard to unions, the intent was we would cover union plans that were the same as the Wal-Marts of the world which are self-insured and self-administered. That was the intent. It was not the intent to go one inch beyond that or to cover one group or one plan beyond that.

I will bluntly say, if the language in here is not consistent with that intent, we need to go back to the drawing board and look at the language. That was the intent of the four or five of us who were working on this issue. That was the specific intent, and that was the instruction that was given to staff.

If the lawyers did not come back with that language, and I did not catch it when I read it, I apologize, and we will look at that. But it is going to take us a few minutes to get the language out.

My understanding of what my colleague has said is that if a union does in fact operate a plan, and they are in fact self-insured and self-administered, he believes they should be treated the same way; anybody who runs a plan with those two qualifications should be treated the same way. Is my understanding correct?

Mr. FRIST. We have to be very careful.

Mr. DEWINE. If those are the facts.

Mr. FRIST. We have to be very careful whom we carve out. And then whatever definition we use for the carve-out, we need to apply consistency to it.

Mr. DEWINE. I agree.

Mr. FRIST. I believe we should go back and look at the way the bill is written.

Mr. DEWINE. Let me suggest we take a look at that as we continue this debate. We have a little time to debate. Let us look at the language.

I again want to reiterate something, though. And I do not want any of my colleagues who are watching this back in their office or who are in this Chamber to misunderstand this. This is a limited carve-out. This is not a huge carve-out.

Basically, what this carve-out says is, because of the unique situation of the self-insured, self-administered plans, we are going to exempt them from lawsuits, based on contract, in Federal court—they are not going to be exempt from other lawsuits and in State courts, and based on medical decisions. So it is a limited carve-out. I do not want anybody who is watching this debate to think this is some huge carve-out. It is a carve-out on a limited basis. Our intent was to treat people equally who were in that unique circumstance.

I know my colleague from Tennessee has been wrestling with this for a couple years: How do you deal with these folks who have this unique problem?

I say to my colleague from New Hampshire, this may not be perfect, but we think it improves the status quo. That is sort of what we are about today: Trying to improve the status quo.

Mr. GREGG. Will the Senator yield?

Mr. DEWINE. No, I will not yield yet.

We have had criticism of this amendment from people who say it does not solve all the problems. I came to this Chamber and said, no, it does not solve all the problems, but we are trying. And we are trying with this amendment. If we can improve the amendment, and if we can get the language more precise that does it, I will be more than happy to do it.

Yes, I yield to my colleague.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I think the language, as presently drafted, is in your definitional section of the amendment where you find ''(ii) (II).'' It says:

> a group health plan that is maintained by one or more employers or employee organizations described in [this section].

That essentially encompasses all union plans. Very few union plans do not use a third-party administrator, very few. So I think you want to tighten up that definition to make it clear that you are applying it to the self-insured, self-funded, self-administered plans, and then you would be picking up the same people that you are picking up under the Wal-Mart exception.

Mr. DEWINE. Reclaiming my time, that was our intent. If that is not reflected in the language, we will change the language.

I yield to my colleague from Maine.

Ms. SNOWE. The Senator from Ohio is making exactly the correct point. This particular provision was intended for those insurers, self-insured and self-administered plans, that obviously do not have a designated decisionmaker. I should further emphasize, all employers are treated equally when it comes to the idea that they participate in medical decisions on behalf of their employees. They are all treated the same. This particular area of the legislation is with respect to contractual decisions. We are attempting to craft out for self-administered, self-insured plans, and that includes union health plans that conform to that particular organization, that they would not be subjected to litigation that other employers would not be subjected to because they had designated decisionmakers.

We know self-insured, self-administered plans do not have designated decisionmakers. So we did not want to expose them to that kind of litigation in this particular section that delineates the causes of action. We were trying to treat all of the employers equally.

Mr. DEWINE. Madam President, I reclaim my time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, we have stated our intent. I think we ought to get about our business and come up with the language to do that, some possible language that we could use. It is always dangerous to try to draft language on the fly on the Senate floor.

I will at least throw this out for possible discussion. We could add ''to the extent the Taft-Hartley Plan Act as self-insured, self-administered plans,'' something to that effect of basically qualifying so that you would get down to whatever the number is—I don't know what the number is—that are self-insured and self-administered. We certainly could do that. There is no reason that cannot be done.

Mr. GREGG. Is the Senator suggesting that additional definition? Is the Senator suggesting that definition, that expansion of the definition, that expanded language be placed on the definition section?

Mr. DEWINE. We could do it that way. If the Senator has a suggestion of how better to do it, I would be more than happy to take the suggestion.

Mr. GREGG. That may well resolve the problem.

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

Mr. DEWINE. I yield to my colleague from Louisiana.

Mr. BREAUX. I ask the Senator from Ohio, I think the discussion has been very helpful. Two points are important to have on the record. A self-insured and self-administered plan by this amendment would not relieve themselves of being subject to litigation for decisions made based on medical necessity under the Patients' Bill of Rights bill we are adopting.

Mr. DEWINE. The Senator is absolutely correct. We believe the language does reflect that, but that is clearly the intent.

Mr. BREAUX. If the Senator would further yield, the point made by the Senator from New Hampshire is absolutely correct in the sense that on page 3 of the Senator's amendment, line 18, when he talked about that group health plan—basically the Taft-Hartley group health plans, as I understand it—you didn't have that limitation of those that would also be self-insured and self-administered. I think if you added that to that definition, you would correct the problem. I think it would be in keeping with what the Senator wants to do and certainly something I could support.

Mr. DEWINE. I appreciate my colleague's comments. I think they are well taken. We will get about the business of dealing with that. The point is very well taken.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. FRIST. Madam President, I yield myself approximately 15 minutes on the opposition time for the time being.

The PRESIDING OFFICER. The Senator from Maine has 7 minutes remaining in her time on the proponent's side.

Mr. FRIST. Madam President, is this 4 hours evenly divided?

The PRESIDING OFFICER. There are four 1-hour segments. The Senator from Tennessee controls 1 hour of the 4-hour time. The Senator from Maine controls 1 hour. She has 7 minutes remaining on her hour. The Senator from New Hampshire controls 1 hour, and the Senator from Massachusetts controls 1 hour.

Mr. FRIST. Madam President, I ask unanimous consent that for the first hour, it be equally divided so we can continue the debate for those in opposition.

Mr. REID. Madam President, I am sorry. What was that request?

Mr. FRIST. For the first hour of the debate, which we are about, I guess, 20 or 30 minutes into, the opposition has not had the opportunity to speak. I was saying for the first hour, in which about 25 minutes has been used, if we can have 30 minutes on either side.

The PRESIDING OFFICER. The debate has already consumed 53 minutes on the proponent's side controlled by the Senator from Maine.

Mr. REID. The Senator from Tennessee has an hour. He can use it any way he wants.

Mr. FRIST. Madam President, I understand I have an hour on my side. I will use time off our side at this juncture. I yield myself such time as necessary.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Madam President, first of all, let me put perspective on this because we have had the amendment introduced, and there are basically three points I want to make.

No. 1, I applaud the Senator from Ohio and the Senator from Maine because they have, for the first time in the debate, addressed this issue of suing employers—this issue of who is responsible, who gets sued, if there is harm or injury or cause of action. As one can tell from their earlier discussion, there has been a lot of debate in struggling with how best to address who you sue and when you sue them and what entity. There is not very much certainty out there. Do you sue the plan? Do you sue the employer? Do you sue the agent of the plan? Do you sue the physician or the hospital when there has been harm or injury?

In the McCain-Edwards-Kennedy bill, there are exclusions for the physician and the hospital. However, the argument and the debate over the last 4 or 5 days has made it clear that you can sue the employers if they directly participate. And what has now been brought to the floor in a very positive way, I believe, is this concept of giving certainty to all that through a model that is called the designated-decision-maker.

Really all that means is that since somebody is going to be sued—and the way it is designed now, you don't know who it is; that doesn't give anybody certainty—the easiest thing to do is for an employer to walk away. It might be me that is sued. It might be the entity that is administering my plan. It might be an agent of that plan. That is so confusing and puts so much risk out there, and you never know whether you are at risk or not, or somebody else, or who the lawyers will be going after. The designated-decision-maker says: We are going to all get in a room and say there is one entity responsible. If there is a lawsuit, you are going to go after that entity. That entity has to bear the risk, and also whatever value there is for that risk will have to be either purchased or sold. That gives certainty to the overall liability issue.

The second point—I will come back to this—that is very positive in the underlying amendment is this broad cause of action which is being struck from the underlying bill. That is where the underlying bill, when you go to the Federal level in the underlying bill, there is a cause of action called ''duty under the plan.'' Unfortunately, if you leave that cause of action in there, it sweeps in all sorts of things, whether it is the HIPAA regulations or the COBRA regulations, and all of a sudden for those sort of indications, you don't have just compensation, but you are exposed to these unlimited lawsuits out there. So it is very positive, in the amendment that has been put on the floor by the Senators from Maine and Ohio, to take that cause of action out of the underlying bill.

The third point is that the Senator from Ohio made the point that this is not the answer to liability. Liability involves exhaustion of appeals. And we have an amendment pending on the floor addressing whether there should be caps; and that entire debate, once you get to courts, whether it is noneconomic damages or punitive damages, involves whether you to go Federal court or State court and then this whole idea of who do you sue. Can the employer be sued? And that last point is what the designated decisionmaker selectively looks at, that sliver of the pie of liability.

So far in the debate, over the last 4 or 5 days, we have not addressed Federal versus State jurisdiction, whether or not there are caps, full and completion exhaustion, or should there be class action suits. The Senator from Ohio made that point. It is critically important to address. If you read the press on this, this decision-maker model will take care of the liability. But it does not answer the questions on the part of myself and many others.

The history of the designated-decision-maker model is interesting as well. It is in the Frist-Breaux-Jeffords bill. The amendment on the floor is very similar to what is in the Frist-Breaux-Jeffords bill in that you give certainty; you have to name an entity to be the designated-decision-maker. That is who you sue. The Frist-Breaux-Jeffords bill based that on what already passed the Senate about a year and a half ago. A designated-decision-maker amendment passed this body. That amendment came from the conference last year, where you had Democrats and Republicans sitting around a table addressing how to come up with a system that best addresses this problem of having employers being sued out here when you really want to go after HMOs. How do you delink employers versus HMOs?

Basically, you make one entity responsible. It could be the employer, if they meet certain financial criteria; it could be the HMO; or the HMO might contract with another entity. But somebody has the risk. They have to have the financial wherewithal that equals that risk or the potential of that risk. So I love the designated-decision-maker model. It is clearly needed and necessary.

Let me take a minute. We keep drawing references to the Frist-Breaux-Jeffords bill and the way that worked, because whether or not I can actually end up supporting the amendment of the Senators from Maine and Ohio really depends on how close in my own mind we get to the underlying model that is in the Frist-Breaux-Jeffords bill. I believe that gives the most certainty—certainty to the employer and also certainty to the employee, at both levels.

The way that process works is there is an internal and external appeals process. Under the Frist-Breaux-Jeffords bill, you can't opt out of that and go directly to the court as you can in the McCain-Edwards-Kennedy bill. We are trying to fix that through another bill.

In the Frist bill, once you go through the internal and external appeals and you go to court, you are going to end up going to Federal court. If there is a lawsuit in advance, prospectively—not after the fact—a designated-decision-maker has been identified. If there is a lawsuit, there is no question of whether you sue the employer or the HMO or the agent of the plan or the hospital or the doctor. Indeed, you sue one person. There is no choice. It is the designated-decision-maker. That is decided in advance.

The Snowe-DeWine amendment takes that concept. Again, I think it is the right way. I think most people would agree that is the most appropriate way to address this issue of employer liability. But what they have done is given a choice, from direct participation, of the decision-maker model. To me—and I will have to be honest—that leads to some sort of uncertainty because instead of having real certainty in the employer's mind and employee's mind, the beneficiary of the plan, that there is one person, and you know in advance a year before, 6 months before, that they have the responsibility, and somebody has paid for it. Instead of having that certainty, you introduce more choice. Again, are they directly participating? Are they in the decision-maker model? The debate we just heard—are they a self-insured, self-administered plan which is carved out of the Federal cause of action, or are they a union plan? We just heard that debate. Some are self-insured. Some are not. Why carve unions out there? We will look at that particular language. All of that uncertainty is avoided with the designated-decision-maker model.

Now, that second point that I have already mentioned, which is very positive in this bill—probably more positive, I believe, in the amendment introduced by the Senators from Maine and Ohio, is the part of their amendment which deletes the provision in the underlying McCain-Edwards-Kennedy bill that would allow lawsuits against employers and insurers for unspecified failures—and I quote from the bill—''in the performance of the duty under the terms and conditions of the plan.''

That is the language which is going to be deleted. That is important because if you don't take that out of the underlying bill, employers will still be highly vulnerable to lawsuits based on alleged failures in the whole realm of administrative duties. That could be under HIPAA, the Health Insurance

Portability and Accountability Act, which we passed in this body several years ago, and COBRA, whereby employers are not allowed to delegate administrative duties, under those laws, to anyone else, by law. You can't. So the liability for those administrative duties, because you can't delegate, would fall on the employer, thus allowing the employer to be sued. So that is very positive, I think. It was addressed directly in the amendment, and I commend them for that.

Third is that we need to understand throughout this debate, as we hopefully can refine this amendment and pass it if we can resolve some of the specific issues in the language. We need to be crystal clear again that addressing the designated-decision-maker addresses the employer aspect of liability but does not address the many other factors of liability, which I think we have a responsibility to address on this floor, since this bill never went through committee and, in truth, we are marking up and writing this bill for the first time on the floor. We need to talk about Federal versus State courts, class action suits, whether or not there should be caps in a noneconomic damage or should there be punitive damages. All of those other issues have not yet been addressed. Now I am quite pleased we are addressing the designated-decision-maker aspect of employers being sued.

Several quick examples. There need to be clear and effective limits, I believe, on class action lawsuits. There need to be firm requirements that we fully exhaust internal and external reviews before initiating any lawsuits. There are a lot of broad exceptions. We talked about some of them as the Thompson amendment was on the floor; we have addressed it. We have to have complete exhaustion as we go through.

Second, if an independent external medical reviewer, who is a doctor, which is in the Frist-Breaux-Jeffords plan, as well as in the McCain-Edwards-Kennedy plan, upholds the plan's denial, then the plan should not be subject to liability. We need to discuss that on the floor. In the underlying McCain-Edwards-Kennedy bill, a patient can still sue, even though that independent medical reviewer, a physician with age-appropriate expertise, has decided that the plan made the right decision in internal and external appeals and the physician says everything was right going through. I believe the Frist-Breaux-Jeffords bill says, no, you can sue for care, injunctive relief, but not for extraordinary rewards. That has to be addressed.

Also, the underlying McCain-Edwards-Kennedy bill would allow the independent reviewer to ''modify''—I believe that is the word used—the plan's denial. And this is just as a physician. What it means is that in a paper review you never see the patient. You read records and hope they are complete, and the reviewer is going to have the opportunity to maybe do thousands of these, maybe hundreds, maybe 10. I don't know. I was with a doctor a few minutes ago who has done thousands of these reviews.

The point is that you never see the patient. You never get the subtleties of clinical diagnosis, which all of us know is science, but there is also art to it. You are asking somebody to look at this paper and review it and say, yes, it was right or, no, it was wrong.

With the information written on that paper, you are allowed to come in and modify the treatment of that patient. I can say as a physician the fact that based on that paper review, a reviewer could require that the plan cover treatment that neither the treating physician nor the plan ever contemplated or ever recommended, this reviewer who maybe over the telephone is reading it, is going to be able to modify it bothers me.

It bothers me because it becomes binding, and we all know it becomes binding. When it becomes binding and you have not had that direct experiential observation, to me it is not right. It needs to be corrected.

I will give another example: The employer in the plan would be subject to simultaneous litigation in Federal and State court. Again, speaking to the underlying bill, we have to address that because we all know when we have lawsuits which result in—take a $120 million damage award such as there was 2 years ago. A $120 million award is a large award. Some will say it is too much; some will say it is too little. But a $120 million damage award results in total premiums being paid for about 55,000 enrollees on average.

I do not want to correlate the two, but $120 million is a lot of money, and, at least in my mind, I come back to the uninsured and the number of enrollees who could go out and buy insurance.

We need to be careful about encouraging shopping between the Federal courts and State courts, and once you get to the State courts, from State to State. Maybe tomorrow, Saturday, Sunday, or Monday we will come back to that and talk about it. Clearly, if you are an attorney, for a single event, you have multiple causes of action, you can question that, but in addition to that, you have multiple venues: the Federal court, the State court, or from State to State to State. That is our interpretation. That is our attorneys' interpretation. It has to be fixed.

In closing, I support the designated-decision-maker model. The Senators from Maine and Ohio are to be congratulated for the first time in this Chamber addressing in a sophisticated, appropriate way how to clarify the uncertainty about suing employers versus suing HMOs.

I support the model. It is in the underlying Frist-Breaux-Jeffords bill. We are looking at the language, as we speak, on the issue of unions and why they are specifically carved out. That needs to be addressed. We hope to have factual information. We will read the language, and I look forward to working aggressively with the authors of this amendment so we can all rally around it.

Mr. DEWINE. Will the Senator yield?

Mr. FRIST. Yes.

Mr. DEWINE. If I can respond to the Senator's comments about why we crafted the bill, it was to give the employer a choice as to whether or not they would go under the designated decisionmaker or under the language of the other bill, which is direct participation.

Frankly, I do not think this is a huge deal. The reality is that the vast majority of businesses will go under designated decisionmaker, and, in fact, we provide in the bill that it is automatic. That will just happen unless they make a conscious decision to say: We do not want to do the designated decisionmaker; we want to go under the direct participation language.

We are in an unknown area, and I do not think anyone knows how this is going to play out entirely in the real world and what decisions they are going to make. Some people come up with some scenarios under which they would not want to designate someone as a designated decisionmaker. The vast majority are. We wanted to provide this as a fallback position, more options.

I do not think it is going to make it more ambiguous or less definite because we provide automatically it is going to be designated decisionmaker unless they make an action and say: No, we do not want designated decisionmaker; we want to go with our model because for some reason it works that way. We can look at the language and talk about it.

In explanation to our colleague from Tennessee, that is what our thinking was. We do not know where the world is going with this new language, and we wanted to give as many options to businesses as we could. That is why we did it.

Mr. FRIST. Mr. President, I claim my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. I guess this decision of certainty—I usually like choice coming through, and it appeals to me. I am a 50-person convenience store operator and have three or four convenience stores in the area, and I have people barely scraping by, working minimum wage, but I recognize giving people some insurance goes a long way. Some people say it does not matter; you still have your care. If you have insurance, you end up getting better care in the

United States of America, it gets you in the door. We talk about the 43 million uninsured, and we all care. It bothers me in a direct way.

I am that operator and I know I am going to have to find a designated-decision-maker. That is going to cost money because it is liability; it is increased liability. I do not know, but if I have a choice, I am going to say I am barely scraping by and it is just easier for me not to play at all. Dealing with designated-decision-maker, you have that choice. If that is the case, I fall back to the direct participation language, and the direct participation language has all of the other problems. The pressure of the system is going to be such because direct participation does not cost you much, but if you get sued for $120 million or in 1993 for $89 million or in the year 2000 for $80 million. That is real; just one case.

If I am sitting in my convenience stores and I say designated, this is the new model created by the U.S. Congress; I am not going to participate in it; it is too expensive. Thereby I go back to direct participation, and we are where we are now.

It is easier to walk away and not give even those 30 employees insurance out of fear, out of risk. That is why with the direct participation model, as long as everybody plays and everybody is certain it has prospective certainty for the employer and employee, people are not going to drop their insurance.

I will be happy to yield the floor.

Mr. DEWINE. To respond, as envisioned by the Senator's original bill—and the Senator from Tennessee is the one who came up with the language of the designated decisionmaker and I applaud him for it because no one has come up with one better. This is the model. This language is pretty much the Frist bill. But in the Senator's example, the designated decisionmaker is going to automatically—you have this company that has three or three convenience stores; they have who knows how many employees; they buy insurance. Their designated decisionmaker is automatically going to be the group handling the insurance. They will not have to make a conscious decision at all. It will just happen. That is the glory of the way it is written and of the Senator's original language, that it is automatic; it is going to happen. They are not going to have to look for a designated decisionmaker.

Under the language of the Senator from Tennessee, it is going to take care of itself. That is the strength of it.

Mr. FRIST. May I use 1 minute and then I will yield on that issue. I want to respond to that.

Mr. KENNEDY. May I ask a question? We have two other cosponsors of the amendment. They have yet to have a word.

Mr. FRIST. How much time has been used by this side?

The PRESIDING OFFICER. The Senator from Tennessee has consumed about 22 minutes.

Mr. FRIST. How much has the other side used since we have been on the amendment?

The PRESIDING OFFICER. The other side has used 53 minutes.

Mr. FRIST. They have used 53 minutes, and we have used 22 minutes.

Mr. KENNEDY. How much have we used?

The PRESIDING OFFICER. The Senator from Massachusetts has used none.

Mr. FRIST. I was speaking in opposition to the amendment.

Mr. KENNEDY. I think the presenters ought to be entitled to whatever time they have remaining. I am a strong believer in that. I would like to invite our cosponsors to have a word.

The PRESIDING OFFICER. The Senator from Tennessee still has the floor.

Mr. FRIST. Thank you, Mr. President. A matter of clarification, in speaking in opposition to the amendment, yielded by Senator GREGG, we have used how much time?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. FRIST. Twenty-three minutes since we have been on the amendment. Clarification: The proponents have used how much?

The PRESIDING OFFICER. Fifty-three minutes.

Mr. FRIST. I will be happy to yield the floor in a moment. Clarification on the designated-decision-maker model: We would not necessarily assume the insurance company is the designated-decision-maker. You would have to designate that, and that is part of our Frist-Breaux legislation, just to clarify that.

Ms. SNOWE. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Ms. SNOWE. Will the Senator yield on that point?

Mr. FRIST. I will be happy to.

Ms. SNOWE. It is important to emphasize in this amendment as we have drafted it includes a provision that starts out with automatic designation: That a health insurance issuer shall be deemed to be a designated decision-maker for purposes of subparagraph (A) with respect to participants and beneficiaries of an employer or plan sponsor.

That is important to emphasize, and it automatically occurs so we remove the ambiguity, extra steps, cost, and so on, with respect to that particular requirement.

Mr. KENNEDY. I yield such time as he desires to the Senator from Nebraska and then the Senator from Arkansas, two lead sponsors.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I thank the Senator from Massachusetts for the opportunity to speak to this amendment. There has been a lot of discussion recently and I think most people's heads are swimming about what a DDM is and what the purpose of this amendment truly is.

The purpose of this amendment is to make sure, whether you are a plan sponsor or an employer, if you are self-insured and self-administered, that you are treated the same. You have to treat one and all the same. That is what this is about. I believe there is some language being worked on that probably will be offered shortly to make it clear that is exactly what is intended by this amendment. It does not specifically carve out one group or another. It carves out all groups where there are plan sponsors or employers who are self-insured and self-administered. All other employers are in a position to have a DDM, designated decision-makers, or they have an insurer which is a designated decisionmaker.

The whole purpose of this legislation is to be able to provide additional rights and opportunities for insurance. This does it. What it also does is make sure that employers are not entrapped in unnecessary litigation and that if they don't make decisions about health care and make decisions about claims, they are not involved in litigation.

Specifically, this amendment narrows it down to not being brought into Federal causes of action. It does not absolve employers or plan sponsors from any kind of litigation that may come through State courts.

While it may be difficult to follow the roadmap, there is one thing that needs to be clarified and that is, it does not treat any one group in any special way. It treats all plan sponsors and all employers who self-insure and self-administer, the same way. If they choose to get a third party administrator, which becomes a designated decision-maker, they will be absolved from liability from litigation unless they somehow participated in the claim-making process, which they would not do if they had a designated decision-maker. This is intended to make sure we balance the interests of the right of the individuals, the right of the patients to sue, with the opportunity for employers not to be entangled in litigation where they should not be entangled. It also means that in balancing these interests, there will be fewer cases of uninsureds, and there will be fewer employers deciding to get out of the business of providing health insurance benefits to employees.

We have heard from employer after employer about their concern—as a voluntary provider of these benefits, now suddenly they can be sued. This makes it clear they will not be sued and it also makes it clear that those who are plan sponsors will not also be sued unless they participate in making decisions about health care claims. That is what this is all about.

I hope this clarifies it for some of my colleagues on the other side of the aisle who have raised questions. It is important to raise questions and certainly ask the question whether there is any special treatment. But if you look at the language and you look at what is being done, there is not any special treatment for one group over another. The category is the same. If you self-insure and self-administer you will be open to some exposure. However, we will make certain that exposure is limited when it comes to Federal actions. That is what this is about.

I yield to my colleague from Arkansas and say before departing, thank you to my colleagues and cosponsors from Maine and Ohio. I believe this is the right way to proceed to improve this bill.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. I am the last of four children and I am the last in this line of four, and I am delighted to have waited patiently to rise today and speak in support of an amendment I am offering with Senator SNOWE, along with Senator DEWINE and Senator NELSON, to protect employers from liability.

The good Senator from Tennessee, Dr. FRIST, would certainly join and agree, as we have taken a good bit of his designated decisionmaker language, that our ultimate goal is to protect the rights of patients while ensuring that employers who provide health care are not subject to frivolous lawsuits.

The objective is to those individuals, the good guys in this bunch, the employers reaching out and providing the kind of health care that Americans need; that we can work within the confines of this bill and within this amendment to ensure they can continue doing that. That is exactly what we have attempted to do. I think we have worked long and hard. I know my colleagues and I have worked long and hard to develop language to do just that, in working with those employers who want to provide the much needed health insurance that Americans want.

Employers that are offering health insurance are the good guys. We don't want to discourage them from offering health insurance. This amendment provides the assurance they need to those offering health insurance, that if they do not make medical decisions or override medical decisions, they are not liable. Again, I know the good Senator from Tennessee, Dr. FRIST, understands that in terms of making sure those who are not making medical decisions are not going to be held liable.

We have worked hard on the underlying bill, as the Presiding Officer knows, as we have talked in many press conferences on some of the most important issues to the American people. This Patients' Bill of Rights is one of those issues. We have reached out.

The opponents of the Bipartisan Patient Protection Act have argued that the Patients' Bill of Rights will drive up health care costs by subjecting employers to increased liability and frivolous lawsuits, and in turn they argue rising costs will force employers to drop health insurance. Our amendment presents an innovative solution to this potential dilemma. We have been able to provide the protection needed by these individuals who are already out there doing the right thing.

By allowing these employers to design this designated decisionmaker, a term presented from the Breaux-Frist legislation, to oversee medical care decisions, we remove most large and small business owners from the threat of liability. They have that option of choosing a designated decisionmaker. We make it possible for employers to contract with a third party to administer health benefits and protect themselves from unnecessary and crippling lawsuits. This amendment makes it crystal clear that employers will not have to open themselves up to new liability as a result of providing health insurance to their employees.

When we began discussing the Patients' Bill of Rights years ago, we wanted to ensure that patients would be able to choose their own physicians and their medical professionals—not accountants, not bureaucrats, not insurance company executives, but the medical professionals—would make the medical decisions. We never, absolutely never, intended to open employers up to liability. And we certainly don't want to do anything in this bill that would discourage these employers from providing health insurance to their employees.

We are delighted to work out the clarifying language that Members believe is needed to assure everyone is treated fairly.

The amendment I offer today refutes the charge that the Patients' Bill of Rights is a trial lawyers employment act. Today we make it clear that we have absolutely no intention of subjecting employers to new liability or frivolous lawsuits. We want to encourage our employers in this country to provide health care coverage for their workers.

In 1993 when we began the discussion of health care, we made it our objective to get more individuals covered under health insurance provided by their employers. We were able to do that. Unfortunately, we have more uninsured in this country today, and we do not want to exacerbate that problem. We want to give these employers the comfort that they need, to feel confident in keeping that employee insurance available.

This amendment is our pledge of good faith to American employers and business owners that we will protect their needs as well as the needs of their employees.

I applaud the work of my colleagues. I have enjoyed working with them. I appreciate everyone's patience and endurance in this process. We hope to be very inclusive, to bring others in to make sure this language is exactly that: It is giving the protection and the comfort level to the employers of this Nation that are doing an excellent job in providing health care to their employees.

I also ask unanimous consent that Senator BAUCUS be added as a cosponsor to this amendment, and I yield.

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

The Senator from Massachusetts.

Mr. KENNEDY. I yield the Senator from Michigan 5 minutes.

Ms. STABENOW. Mr. President, I rise first of all to ask unanimous consent to add my name as a cosponsor to this amendment.

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

Ms. STABENOW. Mr. President, I thank my colleagues on both sides of the aisle for their hard work and the innovative language that is put together in this amendment. For those of us who are sponsors of the Patients' Bill of Rights, we have said since the beginning this was in no way intended to allow lawsuits to be brought against employers, this was about making sure those who make medical decisions were held accountable for those medical decisions.

As we said so many times on the floor, it is really about closing a loophole in the law as well. We have indicated over and over again, when you have only two groups of people in this country who are not held accountable for their behavior and their decisions, one being foreign diplomats, the other being HMOs, it doesn't make any sense. We know this was a loophole that was created by the outgrowth of HMOs and development of new ways of managing health care, and basically the Patients' Bill of Rights is meant to clarify that and make sure those who are making medical decisions are held accountable for the outcomes of those medical decisions, just as are doctors and nurses and other medical professionals.

What I think is important about this amendment is it very clearly states to each and every employer, large and small, that in fact we will make sure if they are not making medical decisions—and in the vast majority of times an employer is not making a medical decision—the intent of the Patients' Bill of Rights is not to create a liability for the employer. We have employers, many in Michigan—hundreds of thousands of them—who are responsible employers, providing insurance for their employees. We want to encourage and support and salute them for doing that and make sure nothing gets in the way of that continuing.

I again thank my colleagues from both sides of the aisle who have put in

a tremendous amount of work on this amendment. There has been a wonderful job done clarifying this. I hope we have now been able to put to rest what was unfortunately a common misperception, something said over and over again to employers of this country, that somehow this opens them up to lawsuit. It never was the intent. This amendment clarifies that and reiterates it.

I hope this will allow us to move forward, to pass this very strong Patient Protection Act that says to each and every family: When you have insurance you can have the confidence, whether it is in the emergency room or the doctor's office or the hospital, that you will have the care available that your family needs.

I will yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

Both the Snowe amendment and the Frist amendment attempt to protect lawyers using the designated decisionmaker language. However, the fact that they use similar names can't mask the dramatic differences between these two amendments. Senator SNOWE's amendment helps employers without hurting patients.

There are two important differences between the designated decisionmaker language in the Snowe amendment and the Frist amendment. Senator SNOWE's amendment ensures that the person an employer designates as responsible and will be liable for all damages caused by any wrongful benefit determinations the patient gets under our bill. This is exactly what employers want and deserve, a clear way under the law to protect themselves.

The Snowe amendment allows employers to name an HMO or health insurer or plan administrator as their designated decisionmaker and not have to worry anymore about being sued. That is what President Bush wants, and that is what we want. If employers give up all control over medical decisions in individual cases such as this, Senator SNOWE's language helps guarantee employers will not be sued, period.

Senator FRIST's designated decisionmaker language is much weaker. Under his proposal, the only entity that can be sued is the designated decisionmaker. While the designated decisionmaker is supposed to have exclusive authority to make benefit determinations, a court or jury remains free to find in fact another person or company influenced the decision that caused the harm. People who are not designated decisionmakers may in fact influence decisions and share liability. But the Frist language leaves victims no way to hold these outsiders accountable. That is because, unlike the amendment of Senator SNOWE, the Frist amendment never deems the designated decisionmaker liable for the acts or omissions of other parties who affect benefit determinations. This is the most critical difference between the two proposals.

The other important difference is that under Senator SNOWE's amendment, only employers can name designated decisionmakers; HMOs cannot. After all, the entire point of having designated decisionmakers is to ensure employers have a clear, easy way to avoid all possibility of being sued, not to protect HMOs.

Of course, the effect of allowing HMOs to have a designated decisionmaker is to enable them to escape liability for part or all of their actions. Under the Frist-Breaux amendment, if a judge or jury finds someone in an HMO harmed a patient and that person working for the HMO was not a designated decisionmaker, the HMO escapes liability.

I think the amendment is sound. I think it has been a matter of discussion and debate. I think those of us who were involved in the development of the initial legislation sought to achieve what this amendment does enormously fairly. It also treats the various Taft-Hartley aspects equally with the other parts, so we have equality for one and equality for the other.

Another important feature of Senator SNOWE's amendment is that it protects employers and Taft-Hartley plans which self-insure and self-administer claims. The Frist alternative contained in S.889 fails to address this issue. The Taft-Hartley plans have a long history of providing quality health care for their members. In their unique structure, employee advocates comprise half of the members of the board. The record shows that this has been an excellent protection even for beneficiaries who have extraordinary health care needs. In structuring this legislation, we wanted to be certain that we didn't impose any inappropriate burdens on these plans.

I commend the Senators. They spent a great deal of time on this amendment. One would think it would be easy in the drafting of it, but I know they have been challenged with it. I commend them for really advancing this whole issue in a very positive, constructive way, a way which really reflects what this President has enunciated and a way which we had hoped to include in our legislation. There was a significant question about it. Legitimate issues were raised. I think this is one of the important contributions in helping move this process. I commend all those on both sides who were very much involved in its development.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, this amendment is a wonderful example of what can be done when we work together to solve problems. The beneficiaries of the work that has been done by Senators SNOWE, NELSON, DEWINE, and LINCOLN are not the Members of the Senate but the people of this country, the families who need quality health care, and the employers that need to be protected from unnecessary lawsuits and unnecessary litigation.

First, I thank Senator SNOWE for her leadership. She has taken the lead on this issue from the beginning. Her work has been absolutely crucial.

My friend, Mr. DEWINE, the Senator from Ohio, has also lent tremendous leadership and expertise to the work on this effort.

I also thank my colleague seated near me, Senator NELSON from Nebraska, who not only brings great expertise to this issue both as Governor and as insurance commissioner of the State of Nebraska, but he has been dogged in his determination to ensure that the small employers, particularly, and employers generally, of America are protected in this legislation.

This effort could not have been achieved without his leadership and without his dogged involvement in this issue. He has been involved in so many of the issues with respect to this legislation. He and I have worked together. He and I and Senator MCCAIN have worked together. He has been involved in this patients' rights protection act from the very beginning. We thank him for all of his work and important contribution.

Also, the Senator from Arkansas, who has expressed a concern about employers from the very first moment, and I have talked about this issue. She cares deeply about patients and deeply about doctors making medical decisions, having a very well-trained physician in her own family, that being her husband. She has firsthand experience with that. But in addition to that, she has shown great concern for small employers and, as has Senator NELSON, has made it very clear to Senator MCCAIN and myself and Senator KENNEDY that the only way she could support this legislation is if we did what was necessary to protect employers. She has been absolutely crucial in achieving that goal.

Without the work of Senators LINCOLN, NELSON, SNOWE, and DEWINE, the employers of this country would be in a different place than they are today. I think they will be after this amendment is voted on.

They have achieved two very important purposes:

No. 1, they have insured that there are real and meaningful protections for employers through the designated decisionmaker model which we have already talked about, which essentially

means the small employers that we have talked about are 100-percent protected. They cannot have liability under the language of this amendment, which is crucial. It is a goal and a principle that we have all shared from the beginning but, again, couldn't have been done without their work. They have also managed to do it in a creative and innovative way that, while protecting employers, does not leave the patients and the families high and dry, which is exactly what needed to be done.

Honestly, it is a very difficult task, but they have worked doggedly on this issue. All of them managed to reach a bipartisan agreement.

The most important thing from the perspective of the overall legislation is that this is another in a series of obstacles about which we have now been able to reach some consensus.

They have followed sort of one by one by one, starting with the issue of scope, which Senator BREAUX, Senator JEFFORDS, I, and others worked on, reaching a crucial compromise going to the issue of independence of medical panels to make sure that those panels are, in fact, independent.

We have reached a resolution of that issue. On the issue of medical necessity, the Presiding Officer from Delaware, along with my friend, the Senator from Indiana, were crucial in being able to reach a resolution that shows proper respect for the sanctity of the contract and the specific language of the contract but some flexibility, where necessary, for the independent review panel with respect to patients, keeping in mind the interest of patients on the one hand, which I know you care about deeply, and the importance of the contract in keeping costs under control.

Without your work and Senator BAYH's work, that would not have been achieved.

The Senator from Tennessee and I, as we speak, are attempting to finalize an agreement on the exhaustion of appeal. Both of us believe, as do most Members of this body, that it is a sensible thing to have a patient go through the internal and external appeal before any case goes to court. We have tightened up that language; working together on it. We know it is important.

The Senator from Tennessee, Mr. THOMPSON, and I are resolving this issue of the exhaustion of appeal. All of us believe that the appeals process is crucial to getting patients the care they need.

If this bill works the way Senator MCCAIN and Senator KENNEDY and I believe it should, the ultimate goal will be achieved if there were never a lawsuit filed because what would have happened is the appeals process would have worked and the patients would have received the care they needed. That is what this is about.

We want patients to use this appeals process. The Senator from Tennessee and I are finalizing an agreement on exhaustion of administrative remedies.

I also want to thank our colleagues on this specific amendment because that is another crucial obstacle. Scope, independence of the panel, protecting employers, medical necessity, and exhaustion of appeals are crucial issues in this legislation about which we have been able to reach consensus.

As I said earlier, the important result is not what is happening within this Chamber but that the families of this country will have more control over their health care, and we will actually have a more realistic possibility of getting the legislation they so desperately need passed.

I thank all of my colleagues for all of their hard work. Without them, this could not have been achieved.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, let me begin by saying that this amendment is moving in the right direction. I believe, with some of the changes which we have discussed with the Senator from Ohio and the Senator from Maine, that we can make real progress on improving it. Unfortunately, the amendment came late. It is complicated. The issues involved are considerable. But before getting into the specifics of the amendment and how it may or may not play out in a positive way relative to producing a quality bill, let me make the point that this amendment addresses an important but not a broad part of the issue.

This amendment doesn't, for example, address some very real and significant issues in the area of liability. It doesn't address the issues of the 56 million people who are in self-insured plans.

It does not, therefore, solve the overall liability question, which if you were to rate the five issues that I think the Senator from North Carolina has appropriately highlighted, although I am not sure he mentioned liability—he probably wasn't thinking in those terms, but he certainly hit the floor if you put liability on the table—liability is probably the key issue for a lot of people in this Chamber.

Issues such as forum shopping, class action, damages, punitive versus compensatory damages, are major issues that we still have to address. I think we recognize that there is still a fair amount of distance to go in the liability area.

But this amendment takes up the designated decisionmaker language. It takes a portion of the Frist-Jeffords-Breaux bill in this area and tries to basically graft that on to what is the McCain-Kennedy bill—a good and appropriate attempt, although I must admit that with just a quick reading of it I think there is going to be some real confusion on the part of employers between what they can do as a designated decisionmaker versus direct participation. I had hoped that the language would have a firewall in there. But as a practical matter, at least the movement is in the right direction to give some insulation for designated decisionmakers and people who use designated decisionmakers.

As to the issue of union liability, there has been a lot of talk around here about making businesses liable. And they are liable. Small businesses and large businesses are all liable—and making HMOs liable.

If you are a union employee and have a union plan, and your union tells you you can't get some sort of treatment that you need and should get, unfortunately, the way the bill was originally drafted, you would not have been able to sue that union plan, any more than if you had been employed by a company, and the company had sponsored your plan, and you would be able to sue them or, under this bill, the HMO. But ironically the unions ended up, under the original draft, of being completely taken out of the picture.

The Senator from Ohio and the Senator from Maine made clear that was not their intent. I understand they are going to adjust some language so union plans, which are in the same basic position as those plans which are self-funded and self-administered, will be the ones which are taken out of the liability picture. That is reasonable. That is the way it should be. We look forward to that modification.

Another issue that this bill raised, which has not been really talked about at all, is the fact that it basically has Federal usurpation of what has been a very traditional State responsibility of determining the viability of the insurance agency, whether the insurance agency has adequate financial strength to cover the projected losses which may occur. This has been something on which States have spent a huge amount of time. It is a real specialty. It is an art form to look at these insurance companies and determine whether or not they have the depth and the ability to cover the costs if they get hit with a whole series of claims.

I would hate to see the Federal Government step into this arena where the States have been responsible and suddenly take it over. But under this amendment, as originally drafted, that would be the case; the Federal Government would now basically take all that responsibility away from the States.

We discussed this with the Senator from Maine and the Senator from Ohio and their staffs to try to straighten this out. They recognize the issue.

I think the Frist model in this area is the right model. It essentially says: Where the States have responsibility, where they are the insurer, then they

will have the ability—and retain the ability—to evaluate the insurer. But where it is a new Federal cause of action, a new Federal event, then the Federal Government will come in and do the evaluation. That seems to be a reasonable bifurcation of responsibility and will be an improvement if it is accepted.

I understand language is being developed which hopefully will be accepted. That is all very positive, in my opinion.

As I mentioned, this amendment, if we can get these issues worked out—and there are one or two other small ones—becomes a much more positive event for moving the bill in the right direction. The question becomes: What do we have left to do in that we have taken up a lot of amendments? Unfortunately, we still have a lot of amendments to go. Most of them are in the liability area. Some of them are in tangential areas. But I do expect we will have amendments, as we move into the evening, which will address such issues as the small employer who decides to cash out their employees and what type of protection they get. Senator ENZI happens to have that amendment.

There will be amendments dealing with class action suits. I think Senator DEWINE actually has an amendment in that area. There will be amendments dealing with coverage and liability. I have an amendment on punitive damages which essentially says if an employer lives by the terms of the external review, they should not be subject to punitive damages. There are a variety in that area. There will be amendments on forum shopping. I think Senator SPECTER has an amendment in that area that he may bring forward.

So there are still a fair number of issues, especially involving the liability questions, which have to be resolved, after we get past the language which the Senator from Maine and the Senator from Ohio have brought forward, which, as I mentioned, I think with some adjustment—which is major to the amendment, but which would be positive; and it appears to be acceptable to the sponsors—hopefully, will move the process in a better direction.

At this time I will yield to the Senator from Wyoming such time as he may need from my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If the Senator from Wyoming will yield for a brief inquiry of the Republican manager, it is my understanding that because of some people being at the White House and a conference that is going to be held by the minority at 3 o'clock, the minority does not wish to vote until 3:45 or 4 o'clock.

Mr. GREGG. I believe there is still approximately an hour and a half left on the amendment. I would hope that once we reach an agreement, and we have the language from Senator SNOWE and Senator DEWINE relative to the issue of coverage for union plans and liability—and State versus Federal responsibility for reviewing the adequacy of liability, and there is one other issue—once we have that language, I personally would think we could start yielding back time and go to a vote.

I think it would be hard to get to a vote before 4 o'clock because of other commitments. It would be my hope we could vote at around 4 o'clock on this amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, this bill is really a strange one for me to be working on at all. Wyoming has one HMO. It is owned by some doctors. So far as I know, there are not any complaints on it. But there are some basic problems here that people in Wyoming are asking about.

Because of Wyoming's makeup, I usually talk about small companies, because under the Federal definition of ''500 employees or less,'' we do not have a single company headquartered in Wyoming that would be considered ''big business.'' But on this amendment I have to talk about big business.

I have been hearing from the accountants of a number of these companies. They are a little bit concerned about what is going to happen to their health care. They work for those companies. They can see what the costs are going to be on their companies. I have to say that this amendment before us now does not address the problem. I would like to think that it did.

I would like to be able to pass this. I would like to not have to talk about a big company. There are the Caterpillers and Motorolas and the Pitney Bowes and the Hewlett Packards. There are about a dozen of these big companies in the United States. Again, none of them is headquartered in Wyoming. I am pretty sure that none of them operates in Wyoming. But I am still concerned about them because there are 6 million people who get their insurance that way.

I would suspect that almost everybody in this Chamber, with the exception of my friend from Wyoming, has one of these big companies in their State. Six million people are getting their insurance from these companies.

What we are talking about is having a designated decisionmaker. It does sound like baseball season, doesn't it?

Let me tell you how this insurance works. Right now they work it in-house. They are able to keep their administrative expenses down to 5 percent. Now they are faced with the possibility of having liability. These are the companies that are providing the Cadillac insurance in this Nation.

I am not aware of complaints of these companies on their insurance. The insurance these people have is far better than the plan we have in the Senate. But they are self-funded, and they are self-administered. Where they make their big savings is in self-administration.

Now we are talking about having a designated decisionmaker. That means they are going to shift the administration to somebody else, which might still be done at 5 percent, but there is this new liability factor that goes with it. The guy that is over here, who is the designated decisionmaker, is going to have to charge them for his potential liability in the decisions that he makes incorrectly. He will not do that for 5 percent. He will need a lot more because what he is selling is liability insurance. So it is going to drive up the costs.

I have asked some of these companies what those costs would be. They have said that, quite frankly, what they will have to do is get group plans for their employees that have less benefits, to fit in the same cost level that they have right now, because this little bit of a liability factor drives up the price astronomically. So in this particular provision that is before us, we are not taking care of the self-insured and the self-administered.

I do have a proposal that I may offer after this one is finished, one that will provide some mechanism for them to continue to do that, and for those employees who they have, who are more concerned about their ability to sue than they are about the current benefits that they have, would have a choice. In exchange for that choice, this company would not have to hire a designated liability holder because that is what a designated decisionmaker would be.

For most of the firms that have the Cadillacs of the industry, most of them will have to change to a designated decisionmaker. That additional cost will be considerably more than the 5 percent they are currently paying to handle administration, that 5 percent that they do partly because they have employee committees that get involved in the decisions. And those employee committees are not going to want to be sued, so they are going to need some relief. I am here in the uncomfortable position of speaking up for the companies that are in your States, not mine, to protect the kind of health insurance they have at the present time and not drive up the cost, forcing them to go to a lower benefit plan with a designated decisionmaker.

This is not the solution. I hope you will pay attention to the solution when that amendment comes forward.

Mr. DEWINE. Will the Senator yield for a moment?

Mr. ENZI. I will yield on the time of the Senator from Ohio. I was just given pretty limited time.

The PRESIDING OFFICER (Mrs. LINCOLN). Who yields time? The Senator from Wyoming still has the floor.

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

The PRESIDING OFFICER. Who yields time? The Senator from Maine has approximately 7 minutes remaining.

Ms. SNOWE. Madam President, we are awaiting modifications to the underlying amendment. Unless there are any other speakers on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Ms. SNOWE. I ask unanimous consent that the time not be taken from either side at this point.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object. We have to move this thing along.

The PRESIDING OFFICER. Objection is heard.

Ms. SNOWE. I yield the floor.

The PRESIDING OFFICER. The Chair notes, if no one yields time, time is charged equally to all sides of the debate.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from New York is recognized.

(The remarks of Mrs. CLINTON pertaining to the introduction of S. Res. 117 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. REID. Mr. President, I ask that the time be charged equally between the parties since we still have time left under the agreement which is before the Senate.

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

Mr. REID. Mr. President, I suggest the absence of a quorum and ask the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, for the edification of our colleagues, the projected order of events is that Senator GRAMM and Senator MCCAIN are going to offer an amendment which I believe is agreed to and will require no vote. We will lay aside the Snowe amendment, and then Senator ENZI is going to offer an amendment. We will debate the Enzi amendment for whatever time he requires. I am not sure it will be that long. Then Senator SPECTER will offer an amendment after laying aside the pending amendments. We will debate that and then probably go to a vote on the Specter, Snowe, and Enzi amendments later this evening—hopefully early evening.

Mr. REID. Mr. President, I would like to speak to the majority leader, but this sounds fine. It is my understanding—I have spoken with the principals; I have spoken with Senator KENNEDY and Senator SNOWE, and that matter appears to have been worked out so we can have a satisfactory resolution of that tonight as soon as Senator FRIST gets back.

Senator FRIST had to leave the Hill for a minor matter. He has some dental work that has to be done tonight. We understand that certainly. It is a valid reason for leaving.

What the Senator from New Hampshire has suggested is appropriate. We will go to another McCain amendment and then the Enzi amendment and then the Specter amendment.

Mr. GREGG. I think it is a Gramm amendment actually.

Mr. REID. There is no unanimous consent request at this time, but I think what the Senator from New Hampshire has outlined is appropriate. I will check with the majority leader. If he has any problems, I will report back accordingly.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

Mr. REID. I ask that the Senator from Alaska be recognized and the time used not be charged against the time before the Senate.

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

EXPLANATION OF ABSENCE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent, to be excused from the voting in the Senate because there is a wedding in the family that requires me to travel to Juneau, AK. I will try to be responsive to the leadership in whatever the calendar turns out to be. But I wanted to put the Record on notice of my absence and the reason for my absence.

I suggest the absence of a quorum.

Mr. REID. As under the previous order, I ask unanimous consent that the time be equally charged.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, I ask unanimous consent the Senator from Wyoming be recognized to offer an amendment and that we debate that for up to 30 minutes with the time equally divided and no second-degree; that thereafter, we go to an amendment from Senator GRAMM, which I understand is agreed to, and that debate will be up to 10 minutes; then we go to an amendment from Senator SPECTER.

Mr. REID. Reserving the right to object, we have been told the Gramm amendment is substantially agreed to but one or two other people have to look at it first. I am sure that will work out fine.

Mr. GREGG. I didn't say it was agreed to; I just said they had 10 minutes.

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

The amendment is temporarily set aside, and the Senator from Wyoming is recognized.

AMENDMENT NO. 840

Mr. ENZI. Mr. President, I call up amendment No. 840.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] proposes an amendment numbered 840.

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

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

The amendment is as follows:

(Purpose: To provide immunity to certain self-insured group health plans that provide health insurance options)

On page 172, between lines 15 and 16, insert the following:

SEC. 304. IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

''(p) IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.—

''(1) IN GENERAL.—No liability shall arise under subsection (n) with respect to a participant or beneficiary against a group health plan described in paragraph (4) if such plan offers the participant or beneficiary the coverage option described in paragraph (2).

''(2) COVERAGE OPTION.—The coverage option described in this paragraph is one under which the group health plan, at the time of enrollment or as provided for in paragraph (3), provides the participant or beneficiary with the option to—

''(A) enroll for coverage under a fully insured health plan; or

''(B) receive an individual benefit payment, in an amount equal to the amount that

would be contributed on behalf of the participant or beneficiary by the plan sponsor for enrollment in the group health plan (as determined by the plan actuary, including factors relating to participant or beneficiary's age and health status), for use by the participant or beneficiary in obtaining health insurance coverage in the individual market.

''(3) TIME OF OFFERING OF OPTION.—The coverage option described in paragraph (2) shall be offered to a participant or beneficiary—

''(A) during the first period in which the individual is eligible to enroll under the group health plan; or

''(B) during any special enrollment period provided by the group health plan after the date of enactment of the Patients' Bill of Rights Plus Act for purposes of offering such coverage option.

''(4) GROUP HEALTH PLAN DESCRIBED.—A group health plan described in this paragraph is a group health plan that is self-insured and self-administered prior to the general effective date described in section 401(a)(1) of the Bipartisan Patient Protection Act.''.

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) EXCLUSION FROM INCOME.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following:

''(d) TREATMENT OF CERTAIN COVERAGE OPTION UNDER SELF-INSURED PLANS.—No amount shall be included in the gross income of an individual by reason of—

''(1) the individual's right to elect a coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, or

''(2) the receipt by the individual of an individual benefit payment described in section 502(o)(2)(A) of such Act.''

(2) NONDISCRIMINATION RULES.—Section 105(h) of such Code (relating to self-insured medical expense reimbursement plans) is amended by adding at the end the following:

''(11) TREATMENT OF CERTAIN COVERAGE OPTIONS.—If a self-insured medical reimbursement plan offers the coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, employees who elect such option shall be treated as eligible to benefit under the plan and the plan shall be treated as benefiting such employees.''

Mr. ENZI. Mr. President, we have spent more than a week debating this version of a Patients' Bill of Rights which would affect the health care coverage of more than 160 million working families who are currently provided insurance by employers on a voluntary basis. We have specifically debated the matter of protecting employers from the new liability in the bill. To that end, Senators GRAMM and HUTCHISON offered an amendment that mirrored the employer protection provision of Texas law by completely carving it out. That amendment was unfortunately defeated. So we are still in the same predicament. We have employers that are providing health care coverage that may think twice about doing so if this bill passes as it currently reads.

Now everyone, including the sponsors of the bill, acknowledges that this bill's stab at an employer protection from frivolous lawsuits needs to be fixed. The Senators are now talking about how we protect the good actors. Those are employers that are doing right by their employees, offering health coverage but not playing a role in denying medical care to which their employees are entitled under the insurance contract.

My hope is that in the course of these discussions everyone will settle on a comprehensive liability fix that includes the designated decisionmaker model presented in the Frist-Breaux-Jeffords bill. As many of my colleagues have said, that certainly seems to do the job. I agree it certainly seems to. In fact, I agree that the designated decisionmaker mechanism must be part of an amendment to successfully resolve the problems in the underlying bill.

However, while the designated decisionmaker model does present itself as the most reliable proposal for protecting most employers, there remains a small segment of the market that will continue to go unprotected. Ironically, this handful of employer health plans may represent the best of the best. These are the plans that we all should envy. They are plans better than we have in the Senate. They are referred to as the self-insured, self-administered employer plans. They comprise roughly 5 percent of the entire ERISA market.

Five percent is not a small number because that is still 6 million people, but the problem under the Kennedy-McCain direct participation model and even a designated decisionmaker model as we have been debating in the last few minutes is that these employers will have to dramatically alter their health plan because they do the plan administration in-house. That means they are participating in everything, and it means they cannot just designate their third party administration or insurance company because they don't currently contract with such entities for the purpose of processing claims. That is the difference between the self-administered and the fully insured employer plan.

We can reasonably expect the fully insured employer plan to be able to designate the final decision on a claim for benefit because that is generally how they function now, having the insurance company administer the plan, with the employer participation ranging from full plan design to advocating for a sick employee. But that is not the way the self-administered plan operates. So none of the proposals protects them.

My fear is that none of the proposals even preserves that kind of a plan. Let me explain why that is a problem. These companies that self-administer are few and far between, probably a dozen in the entire United States. But they are the big companies, the companies that operate probably in everybody's State but mine. Usually I am the advocate for small businesses because all of my businesses are small. There is not a single company headquartered in Wyoming that would be considered big business by the Small Business Administration. This issue has come to my attention from companies that participate all over the United States, and they have brought me the stories of how it will affect their plan, what the costs will be. It does require a fair bit of capital to administer a health plan and also requires that the employer wants to be actively involved in the caliber and range of benefits their employees receive. They receive more benefits than almost anyone else. And they want to design a wide, often unique range of benefits to suit the specific needs of their employees. Because the employers have the in-house resources to do so, they are actually able to be more cost-effective in what they provide than if they provided a fully insured health plan. They would rather have the health benefits than the administration benefit. It is not that they can just provide the same benefits cheaper and more efficiently; they actually provide a richer benefit package for less.

The benefits some of these employers provide include extensive mental health counseling, on-site wellness clinics, routine screenings, they include cancer, osteoporosis, and domestic violence counseling, and the list goes on. These employers often use employee review boards to evaluate disputed claims for benefits, which is also a practice used by a number of employee union operated health plans. These are clearly benefits and administrative practices designed to help employees get the highest quality health care available. In fact, these employer plans are often referred to as the Cadillac of plans. As I said before, isn't it ironic that these are the health plans hardest hit by this bill? That doesn't make any sense to me. And it clearly doesn't make any sense to me to leave these employers unprotected as we identify a way to protect employers.

For that reason, the amendment I offer today is a solution that I think is reasonable and will force us to ask ourselves a few tough questions about the purpose of a Patients' Bill of Rights. The amendment would require a self-insured, self-administered employer to offer their employees one or both of the following options, in addition to the self-administered, self-funded plan, and thereby gain a ''shield'' around that self-administered plan from the new cause of action. The logic of this amendment is to provide employees with the option of choosing a different health plan, which would also afford them access to a cause of action. The employee chooses if he or she wants that to be a component of their health benefit.

Under the amendment, self-administered, self-insured employers would be required to offer at least one of the following options. The first would be a fully insured product, under which an employee could exercise the cause of action in this bill against the insurance company administering the health plan; or, the employer would provide the option of receiving, in the form of an ''individual health benefit,'' the amount of their employer's annual premium contribution under the self-administered employer plan. This would have to be used to buy health care, which is done in the State regulated individual market. They have the right to sue.

If an employer offers one or both of these choices to employees, then the employer would not be subject to the new cause of action under the Patients' Bill of Rights. Any new civil monetary penalties would apply to these employers for violations of the act, and the external appeals determination would be binding on the employer, but enrollees would not be able to pursue damage awards against the employer under the new cause of action. As under the Frist-Breaux-Jeffords bill, this provision would not preempt any medical malpractice action currently available in state court.

It would not do that. This is very clear. An employee makes the choice to either keep the caliber of benefits under the self-administered plan, or to choose a plan specifically for the right to sue. Those employees that choose the fully insured product will be able to hold their plan accountable under the new cause of action. And, those employees that choose to purchase their own plan through the ''individual health benefit'' are similarly able to hold their plan accountable under state law.

The argument has always been that ERISA is unfair because it ''traps'' employees in the employer sponsored plan, affording that option alone, where damage lawsuits aren't available. This proposal solves that dilemma without jeopardizing access to top-notch employer sponsored health care for those employees. Have any of you been hearing from the major companies that provide the self-insured, self-administered employer plan? No, you have not. They have not been asking for that right to sue. They like the range of benefits they have. They like the personal way it is handled.

The arguments you will hear against the amendment, I believe, actually make the case for it. It is very simple. It will be argued that employees will never be able to get the rich benefit packages that their employer's self-administered plan currently provides if they opt into the individual market by taking the ''individual benefit,'' and, while it may be better than the individual market under the fully insured option, surely it won't compare to the self-administered option.

That is absolutely right. If they spend the same amount of money and add a liability part to it, you do not get as much insurance. I am trying to preserve their insurance, not the right to sue, by giving them the flexibility. Any employer that ever had a bad actor incident in their company would have all of their people go out into the individual market under this plan.

This bill would eliminate the best employer plans out there because we feel compelled to sue them instead of making the decision to eliminate self-administered plans by a lawsuit from Washington. Why don't we let the employees make the choice for themselves? Every time a window of choice comes open they can opt into this other plan if they think it is a good way to go.

But I will tell you why the businesses cannot do what is being mandated under this bill. If they have to have a designated decisionmaker, they are hiring somebody to take the liability risk. They are not just hiring somebody to administer the plan. That is only a 5-percent cost. This will drive their prices up dramatically if we do not give this option, and people who are receiving the best care in the United States at the present time will have to settle for something else.

I believe we have made a concerted effort through the amendment. It is one we talked about a lot last year in the Patients' Bill of Rights conference committees. We made an attempt to amend the process, to remedy the problems of the entire liability section under the underlying bill, including protecting employers and including protecting small employers.

It is not worry about the small ones; this is worry about the big ones who are providing the best of the best. I do not believe we will be doing a good job unless we include this amendment.

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

The PRESIDING OFFICER. If no one yields time, time will be charged against both sides.

The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I understand what my friend from Wyoming is trying to do. We appreciate his work on this issue. This is a subject matter that was covered previously by the Snowe-Nelson-DeWine-Lincoln amendment on which we reached consensus on the floor a few hours ago. That amendment was specifically designed to strike the proper balance between protecting employers on the one hand and making sure we also protected the rights of employees. So this is an issue that has already been covered, about which there has already been great discussion, work, and compromise across party lines, Democrats and Republicans, and about which we are soon to have a vote. It is an issue about which we already have consensus. We have widespread support for that consensus.

The reason for that widespread support is we have protected employers while at the same time kept alive the rights of employees and patients. We have struck in a very creative way a solution to that problem.

This specific amendment has at least two major problems. No. 1, what it does is take away the rights of employees, patients, and families, to hold anybody accountable if one of two things occurs. The problem with that concept is that it is in violation of the President's principle, which we have talked about at great length on the floor of the Senate, which is that employers be protected but that somebody be held accountable if the employee, the patient, is injured as a result of a medically reviewable decision. The President specifically said that in his principle. That principle is completely complied with in the Snowe-DeWine-Nelson amendment because in that amendment we create a situation where we protect the employees right to recover if, in fact, they are injured by a medically reviewable decision, while at the same time providing protection for employers. So that is the reason that consensus was reached. That is the reason both Democrats and Republicans support it across party lines, and that consensus is consistent with the President's principle.

This is an issue about which we have already talked and an issue about which we have reached some agreement.

In addition to that, there are at least two other problems with this specific amendment.

No. 1, it provides the employees with a false option. It says for self-insured, self-administered plans, if either of two things occurs, the employee, the family, and the patient lose their right to hold anybody accountable. One of those options is that they go out, get a voucher, and buy their own health insurance. But there is absolutely no requirement that the voucher be adequate to buy quality health insurance plans.

Second, they may provide a comparable plan. But there is nothing to require that the benefits of that plan be equal to the benefits the employee would otherwise have.

The bottom line is there are no protections that require that under these options the employee or the patient end up with the same quality health care plan. In many regards, it is a false option that is being provided to them.

Another fundamental problem is that there is a provision in the amendment—this is the B–1 exclusion from income—which says section 106 of the Internal Revenue Code of 1986 is amended by adding at the end the following. Of course, an amendment to

the Internal Revenue Code creates a blue slip problem. This issue has to originate in the House, which means, if adopted, that this entire legislation could be sent back to the Senate from the House.

We have a number of problems. I understand what my colleague is trying to do. I think his purpose is very well intentioned. But I say to my colleagues, No. 1, this is an issue about which we have already reached consensus in the Snowe-DeWine-Nelson amendment. We have reached that consensus for an important reason. We have complied with the President's principle. We have complied with the fundamental principle, with which many of us on both sides of the aisle agree, which is we need to protect employers and provide the maximum protection for employers but, in that process, not leave the patients behind. That is the reason we have an amendment to be able to reach consensus.

No. 2, the choices that are being provided in this particular amendment we believe are false choices, and they would not require that the employee or the patient receive the same quality plan they would get with the employer.

No. 3, it creates a blue slip problem, which means the entire Patient Protection Act could be sent back to the Senate since it involves an amendment to the IRS Code.

There are a number of fundamental problems. I appreciate my colleague's work on this issue. I think this does not move us in the right direction. We have an amendment that already addresses this issue. It is an amendment that provides protection for employers while at the same time keeping alive the rights of patients and employees.

I urge my colleagues to vote against this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. ENZI. Mr. President, I want to quickly refresh the memory of the Senator from North Carolina.

I would not have entered into the time agreement had I known he wasn't listening when I debated the Snowe-DeWine arrangement where I clearly pointed out that it is not considered thereunder. I think this is a sticking point that the President would see as being very difficult.

We are talking about companies such as Hewlett-Packard, Firestone, Motorola, Caterpillar, Pitney Bowes—big companies that are providing this. I have checked on the costs. Their costs will go up from $40 million to $70 million if the Snowe-DeWine amendment is the only defense they have.

I yield the remaining time to the Senator from Texas.

Mr. GRAMM. Mr. President, first of all, this problem has not been fixed. The amendment we will adopt is window dressing and has no impact on this problem. What the Senator has proposed is a solution to an assault on the best health care plans in America. The biggest companies with self-insured plans that employees love will be destroyed by this bill.

All the Senator is saying is that if Wal-Mart employees love their plan, and they want to keep it and agree to not require Wal-Mart to be liable to be sued, and if Wal-Mart gives them the option of going into a fully-insured plan with liability so that they do not have to be in the Wal-Mart self-insured plan, they can choose to remain in it, and Wal-Mart will not be forced by liability costs to cancel their plan. This is an important issue that addresses a very real shortcoming in this bill. The incredible paradox is that this bill will do the most damage to the best health care plans in America—plans that are self-insured, that are large, and that provide terrific coverage. Under this bill, there is no question about the fact that the employer will be held liable. That liability fear will end up forcing them out of these plans.

The Senator has offered us a third way. The third way is if every employee is offered an alternative where there is liability available, then those who choose to stay in their health plan and say, I love my Wal-Mart plan and I don't want to sue Wal-Mart, would have a right to do it. That is what the Senator's amendment does. All of the rest of these arguments have nothing to do with the amendment.

Do you want to destroy the best health care systems in America? If you do, you want to vote against the Enzi amendment. If you do not, vote for the Enzi amendment which guarantees that a Wal-Mart employee will have an option of another health care plan where everybody is liable. But if they choose a better plan with fewer lawsuits, aren't they better off by definition by choosing?

The Senator from North Carolina says if you do not get lawsuits, you ought not to be happy. Maybe not everybody agrees with the Senator from North Carolina.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, what is the time situation?

The PRESIDING OFFICER. No time is remaining on Senator ENZI's side, the sponsor of the amendment, and 8 minutes 44 seconds remain in opposition to the amendment.

Mr. GREGG. I understand the Senator from Texas has an amendment, which has been agreed to by both sides, and she needs about 3 minutes to present it. Is there any objection to setting aside the Enzi amendment and allowing the Senator from Texas to go forward?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Texas is recognized for 3 minutes.

AMENDMENT NO. 839

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself and Mrs. CLINTON, proposes an amendment numbered 839.

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

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

The amendment is as follows:

(Purpose: To include information relating to disenrollment in the information provided to patients)

On page 101, between lines 14 and 15, insert the following:

(3) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

Mrs. HUTCHISON. Mr. President, this amendment is a very simple one. There are several things that must be reported to an enrollee in a plan before the company can implement those things. They are major changes to that person's plan because you don't want a person to go into the doctor's office or into the pharmacy and be told they have been dropped from their insurance or that their spouse has been dropped from their insurance or their child.

We are requiring under the basic bill 30-day notice of any material change. My amendment just specifies disenrollment as one of those items that must be given 30 days' notice.

I have had an experience in which a person's husband was dropped from a plan, was not told about it, and found out when the person went to pick up a prescription drug for the husband, and had no way to fight it in the pharmacy. Later in the week, when the person called to find out why the husband was dropped from her plan, they found it was a mistake. Of course it was a mistake.

So that is why you want the 30 days' notice, so that a person would not have to find out that they are not getting coverage they thought they had through a clerical error.

That is all this amendment does. I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 839) was agreed to.

Mrs. HUTCHISON. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 840

Mr. EDWARDS. Mr. President, let me respond briefly to a couple of the comments that were made about the Enzi amendment.

First of all, no argument was made that I heard about the blue-slip problem, so I presume there is agreement that if this amendment is included, it would require the entire Patient Protection Act to be sent back.

Second, I say to my friend from Wyoming, I actually did listen to his comments in the debate. And not only that, I sat in hours of meetings with Senators SNOWE and DEWINE, and others, working out the language of the Snowe-DeWine-Nelson amendment.

The Senator is factually incorrect about one thing; that is, that what Snowe-DeWine-Nelson does is, No. 1, provide complete, 100-percent protection for 94 percent of the employers in the country. Almost every small employer is totally protected. But we left rights in place for patients. The employers are completely protected.

For the self-insured, self-administered employers, we have also provided specific protections in this amendment, which we have been working on for several days now. No. 1, they are completely carved out. Self-insured, self-administered plans are totally carved out of the Federal cause of action in the Bipartisan Patient Protection Act. They cannot be held responsible for contractual, administrative responsibilities, period. They are out.

Second, we have provided that if they choose to do so, they can pick a third party designated decisionmaker and send all liability to that decisionmaker by which they are completely protected.

And finally, we have provided that if they have what many of these large employers have, which is a system where they simply make a decision, yes or no, on paying the claim after the treatment has already been provided—that the patient goes and gets the treatment; then they decide whether they are going to pay for it or not—they cannot be held responsible.

So I say to my friend and colleagues, what we have done is provide complete protection for 94 percent of the employers in this country in the Snowe amendment, while at the same time not removing the rights and protections of patients.

For the self-insured, self-administered employers, we provided three protections: No. 1, they are completely out on the Federal cause of action, which is contracts, administrative issues.

No. 2, we have specifically said they can use a designated third party decisionmaker and remove all liability by doing that if they so choose.

No. 3, we have said if they operate the plan by saying: we decide after the treatment just simply whether we are going to pay for it or we are not going to pay for it, they are completely protected.

So after lots of work, and many hours, I say to my colleagues, we believe we struck the right balance in both cases—for providing maximum protection for the employers and keeping in place the rights of patients, employees, and families.

So in addition to the blue-slip problem, which in and of itself would be enormous, we believe that we have dealt with this issue. We have dealt with it in a proper and adequate fashion. And we have addressed the concerns of the self-insured, self-administered plans, and the issues raised by small employers around the country who will be completely protected by this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time on this amendment?

The Senator from Wyoming.

Mr. ENZI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It is my understanding that the managers of the bill, including Senator FRIST, would ask that this vote be put over until a later time. So I ask unanimous consent that be the case.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Chair advises the Senator from North Carolina he has 4 minutes remaining in opposition to this amendment.

The Senator from Texas.

Mr. GRAMM. Mr. President, under the previous unanimous consent agreement, I believe I had 10 minutes to offer an amendment with Senator MCCAIN, but he is not here. I am waiting for him to come back. So I would just like to suggest that perhaps we could modify the unanimous consent agreement so that when he does come back, whoever is speaking at that point, whenever they are finished, we would be recognized to do the amendment. But there is no reason we cannot conduct other business while we are sitting here.

Mr. KENNEDY. Why not talk now?

Mr. GRAMM. I am offering this with Senator MCCAIN. I think he wants to be here as well. It is my understanding he is on his way.

Let me just suggest we let Senator NICKLES speak, if he would like to speak. We could all learn something from listening to him. And then, when he is finished, hopefully Senator MCCAIN will be back, and we will do this long-awaited amendment.

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

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I just appreciate my friend and colleague from Texas. I will be very brief. I understand the Senator from Pennsylvania wants to come and speak on his amendment. I would just like to make a couple general comments.

Just for the information of our colleagues, I believe at—6:30 we will have three votes. So people should be cognizant of the fact we are going to have two or three votes—three votes, I believe—at around 6:30.

One, I wish to compliment the Senator from Wyoming, Mr. ENZI, for his enrollee choice proposal. I think it is an outstanding proposal. I urge my colleagues to be in favor of it.

I would also like to make a couple comments dealing with the designated decision maker. Some people are acting like this is a grand compromise, that this is going to save employers: Employers are going to be exempt now because we are going to give this decision to a third party.

When I ran a company, Nickles Machine Corporation, we had a third party administrator. They handled all the administrative claims. They did a decent job. So I didn't have to do it, our company didn't have to do it. We hired them to pay the benefits, to harass the providers, to make sure that benefits were paid or weren't paid. They paid the right benefits, didn't pay the right benefits. They were hired guns to run the plan, to make the decisions, to negotiate with the hospitals, negotiate with the doctors—all those kinds of things. That is what third party administrators do.

Now we are talking about saying: They have that responsibility, and now they have liability, too. That's what this amendment does. Some people said: It is going to hold employers harmless. It will not. I will tell you, the net result is third party administrators are going to say: What am I liable for? Under the McCain-Kennedy-Edwards proposal, they are liable for anything and everything. They are liable for unlimited economic damages. They are liable for unlimited noneconomic damages, pain and suffering. They are liable for punitive damages—up to a cap of $5 million—in Federal courts. They are liable for unlimited economic and noneconomic damages in State courts.

It has never been said that State court limitations for doctors and so on would apply to the plans and/or to the States. So now we are saying to a third-party administrator, we want you to assume the liability but the extent of the liability is not defined. It is unlimited. One good lawsuit and they are going to have to write a great big check. What are they going to do? They are going to have to charge a lot of money. They are going to have to

charge as much money as they think this will cost, and they are going to guess because they don't know.

It is kind of like playing Russian roulette. They might be lucky and not have any suits so whatever they charge will be profit. Conversely, if there is one bad suit and they are found liable, they are assuming this liability and they could go bankrupt. So they are going to be trying to err on the high side.

The net result, for everybody who thinks this is going to exonerate employers and all they have to do is designate somebody else to accept their liability, I tell my colleagues, as an employer, that is not going to happen. An employer may say: You handle this, third party; you assume our liability. And that third party is going to say: OK, but I am going to charge you for it, and I am going to charge you more than enough to make sure that we don't go bankrupt in the process.

Maybe they can buy insurance themselves or maybe they can't. My guess is we are going to find out. Some people have said: CBO says that the liability provision under this bill is .8 percent. I would be willing to bet anybody the premiums that are going to come out as a result of this liability in third party administrators assuming liability is going to be a lot more than .8 percent. My guess is you are going to be looking at premium increases of 4 and 5 percent just to cover the liability before someone will take this because the liability is not defined. It is unlimited, unlimited noneconomic, unlimited economic.

The contract coverage, well, you may have to cover just about anything. We never did tighten up medical necessity so if somebody says maybe it should be covered, it should be covered. So you are not even confined to the contract. We don't have contracts. This third party administrator, which is usually charged with enforcing a contract, does not have a defined contract and has unlimited liability. And we tell them they have to pay for everything. They are going to end up charging the employer more than they think it would cost so they don't go bankrupt.

So we are going to find out how much this costs. My point is, I want people to be aware of the fact that just having a designated decision maker with no limitations on liability, with no limitations on covering what is in the contract can be enormously expensive.

One other fact that people haven't considered. If you are a designated decision maker and you are making these decisions on what to cover and not to cover and you are liable if things don't work out, you are hardly ever going to say no. You will hardly ever say no because if you say no, you might be sued. Therefore, you are going to have more defensive medicine than you have ever had. Whereas before they were charged with the responsibility of enforcing a defined contract—this is covered; this is not covered; being more of an administrator of a contract and a plan—they are now going to be faced with liability. And they can't afford the ultimate price of being hit with a heavy lawsuit. So when the claim comes forward, if it is even close, they are going to pay it. Pay it. Pay it. They don't want to take a risk or a gamble that they can be sued for unlimited damages. So you will have enormous increases through increase of what I would call defensive protections so people don't have liability costs.

And then you will have people guessing what the liability will be, and that will increase the cost to make sure that they have enough that they don't go bankrupt.

The net result is that this designated decision maker that some people think is going to exonerate employers will show that this is a very expensive provision, and the cost of this bill, the cost of medicine, the cost of health care and, therefore, ultimately the number of uninsured will rise dramatically as a result of this bill and because of this provision.

I urge my colleagues to vote no on the underlying amendment that deals with this provision.

I want to mention—I hope it gets fixed—I think it is outrageous we could exempt union plans from this provision. I hope it is fixed.

I yield the floor.

AMENDMENT NO. 843

The PRESIDING OFFICER. Under a previous order, the Senator from Texas is recognized, with the agreement that his 10 minutes will be equally divided, 5 minutes on either side.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and Mr. MCCAIN, proposes an amendment numbered 843.

The amendment is as follows:

(Purpose: To ensure the sanctity of the health plan contract)

Insert at the appropriate place:

Notwithstanding any other provision of this Act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plain language of the plan or coverage claimants) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required, provided that the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. REID. If the Senator from Texas will withhold, and no time will be charged against him, I want to propound a unanimous consent request.

Mr. President, I ask unanimous consent that Senator SPECTER be recognized to offer an amendment regarding Federal courts with an hour for debate equally divided in the usual form; further, that Senator SNOWE be permitted to modify her amendment; further, that the Senate vote in relation to the Snowe amendment at 6:50 p.m. this evening, with 10 minutes for debate prior to the vote equally divided in the usual form with no second-degree amendments in order prior to the vote; further, that following disposition of the Snowe amendment, there be 2 minutes for debate prior to a vote in relation to the Enzi amendment with no second-degree amendments in order prior to the vote; further, following disposition of the Enzi amendment, there be 2 minutes for debate prior to a vote in relation to the Specter amendment with no second-degree amendments in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, as I understand it, as to the 10 minutes, because the amendment was itself divided into four parts, four holders of time will be given 2½ minute segments.

Mr. REID. When I read that, I knew we should have a clarification. I appreciate the Senator clarifying that.

Mr. SPECTER. Mr. President, reserving the right to object, I entered the Chamber and I heard my name mentioned. I would ask that the unanimous consent be repeated.

Mr. REID. That the Senator from Pennsylvania would have one hour evenly divided in the usual form.

Mr. SPECTER. Mr. President, I do object to that. I was asked how long I thought it would take, and I said 2 hours. Then I was asked if I thought I could do it in an hour, and I said I would do my best. This is a complicated amendment. This is a complicated bill. I am not prepared to enter into a unanimous consent request which limits my presentation to 20 minutes.

Mr. REID. Will the Senator from Pennsylvania agree to have 45 minutes for him and 15 for us? We have Members who want to know when they are going to vote.

Mr. SPECTER. That is not satisfactory. I am being importuned over here about what a good deal it is. This amendment, Mr. President, involves a question of whether there will be both Federal jurisdiction and State jurisdiction. It is a matter I have discussed with the managers of the bill again this morning and with Senator EDWARDS. I believe there is going to have to be some discussion. There are going to have to be some issues raised and

some questions answered. It simply does not lend itself to that kind of time constraint.

Mr. REID. If I could say to the Senator from Pennsylvania, how about if he has an hour and we have 20 minutes?

Mr. SPECTER. Mr. President, I am prepared to start the debate and to make it as expeditious as possible. But I am not prepared to negotiate time to an hour and 20 minutes total. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Texas is recognized for 5 minutes on his amendment.

Mr. GRAMM. Mr. President, I have sent an amendment to the desk. The amendment has been read.

Let me explain to my colleagues what the amendment does, why it is important, and then I will thank our distinguished colleague from Arizona.

Under the bill that is now before us, under the language of the current bill on page 35, the bill says that contracts are binding. But then it makes those contracts binding unless they are subject to a judgment of medical facts and they are subject to medical review.

This creates an extraordinary ambiguity and, for all practical purposes, makes the contract not binding. That creates a situation where every health insurance company in America will realize that these outside medical reviewers, based on medical necessity, could invalidate every health insurance contract in America and, as a result, put everybody under the high option plan whether they pay for it or not. The net result would be an explosion in health care costs. In fact, if this provision is not fixed, it is at least as explosive in potential cost as the liability section, which we have talked about 10 times as much.

The amendment I have offered makes the contract binding, and it provides language that says the contract is binding as long as the contract does not violate the language of the bill. Let me explain very briefly what that means. If, as we do under the bill, we say that if you provide emergency room coverage, you have to have a prudent layperson standard for that emergency room coverage, so you have to do that if you provide the coverage no matter what this amendment says; or if we say under the bill that if the plan has pediatric care for children, that can be the primary physician, then it would have to be the law that would govern.

Within that very limited proviso, this amendment makes the contract binding. I think it is a dramatic improvement in the bill.

I thank our distinguished colleague and my old and dear friend from Arizona for helping me work this provision out. It is something I have worried about. I do think it improves the bill, and it certainly would not have happened without the reasonableness of our dear colleague from Arizona. I thank him for that.

I yield the floor.

Mr. MCCAIN. Mr. President, I thank the Senator from Texas for causing this amendment to happen. It really is to ensure the sanctity of the health care contract. Concerns were raised that under the pending McCain-Kennedy legislation, independent medical reviewers can order a health plan to provide items and services that are specifically excluded by the plan.

That was not the intention of the law. The Senator from Texas pointed out that it could have been interpreted in another way, and clearly this amendment I think tightens that language to the point where it is clarified that the bill doesn't do this and its specific limitations and exclusions on coverage must be honored by the external reviewers.

There are numerous safeguards already in the bill to ensure that external reviewers cannot order a group health plan or health insurer to cover items or services that are specifically excluded or expressly limited in the plain language of the plan document and that do not require medical judgment to understand.

So I think this language is important in its clarification. I understand Senator GRAMM's concerns. I know this will not bring him to the point where he is willing to vote for the bill, but I do hope it satisfies many of his concerns, and we will continue to work with him to try to satisfy additional concerns. I appreciate his cooperation and that of his staff. I believe my friend from Texas would agree this is probably the 35th draft we have of this maybe 9-line amendment, but each word is important nowadays as we work our way through this bill. I believe the appropriate place is on page 36, line 5.

By the way, I thank Senator KENNEDY and Senator EDWARDS and their staffs for agreeing to this amendment. I share the opinion of the Senator from Texas that it is an important amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I urge that we accept this amendment. As in other areas, there has been a desire to provide clarification to the language we had in the bill. One of the issues that has been debated is the power and authority of the review medical officer in the review process. It was never the intention to include benefits that were not outlined in the contract. It was going to be limited to the contract, but it was also going to give discretion in terms of medical necessity. So this is a clarification of that, and I think it is a useful and valuable clarification. I hope the Senate will accept it.

Mr. GRAMM. Mr. President, I seek only to do good, not to have it recorded through a recorded vote. So I ask unanimous consent that the amendment be accepted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 843) was agreed to.

Mr. MCCAIN. The amendment that I offered today with Senator GRAMM helps to clarify the intent of how this bill deals with medically reviewable decisions.

Mr. KENNEDY. The Senate should understand that the language in the McCain-Edwards-Kennedy bill is based on language from a bipartisan compromise between JOHN DINGELL and CHARLIE NORWOOD. Every member of our conference signed off on our approach the last Congress, from DON NICKLES and PHIL GRAMM to JOHN DINGELL and me.

Our approach is based on a very important concept. It assures that the external reviewer cannot be bound by the HMO's definition of medical necessity. This does not mean that the reviewer sign off on anything that is explicitly excluded by the health plan. If the plan covers 30 days in the hospital the reviewer cannot approve 100 days. However, where a coverage decision requires medical judgment to determine whether of not what the patient is requesting is the type of treatment or services that is explicitly excluded, we intend for that determination to be eligible for independent review.

Mr. MCCAIN. The amendment we are drafting here—that merely restates what is in the underlying bill—is not intended to change our fundamental approach, just to clarify our intent.

Our overall bill still clearly states that coverage decisions that are subject to interpretation or that are based on applying, medical facts and judgment should be reviewed. This includes those decisions that require the application of plan definitions that require that interpretation.

Mr. KENNEDY. Absolutely—the reviewer should be looking at those cases. The amendment is intended to clarify that we never meant to have the independent reviewer approving a benefit that is explicitly excluded in all cases. However, in the case where there is some dispute about whether it is a medically reviewable benefit, we do want the case reviewed.

Mr. MCCAIN. Right, just as in the case we have heard about a child with a cleft palate. The plan says they do not cover cosmetic surgery, but the doctor argues that there is specific health risks for not having this surgery. That is something the independent reviewer would look at to determine if it is covered in this case.

Mr. KENNEDY. Under the bill the external review process is first designed to determine whether a denial by the plan or issuer is based on a particular

definition, or a specific benefit exclusion or limitation under the plan or contract whose meaning is unambiguous and does not turn on specific medical facts in an individual patient's case. An appeal will be dismissed in cases where the entity concludes that unambiguous plan language is the basis of a denial and that no set of medical facts either could or would result in coverage under the terms of the plan.

Mr. REID. Mr. President, we are going to have a vote sometime from 6:45 to 7:15, according to how much time is taken on the Specter amendment. We will have three votes at that time. Members should be ready to come and vote at or about 6:40 or 7:15, something like that.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized to offer an amendment.

AMENDMENT NO. 844

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

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 844.

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

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

The amendment is as follows:

(Purpose: To require that causes of action under this Act be maintained in Federal Court)

On page 153, strike line 9 and all that follows through page 154, line 2, and insert the following:

''(10) STATUTORY DAMAGES.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection. In such actions, the court shall apply the tort laws of the State in determining damages. If such damages are not limited under State law in actions brought under this subsection against a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan), then State law limiting such damages in actions brought against health care entities shall apply until such State enacts legislation imposing such limits against group health plans (and issuers). Nothing in this section shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and issuers.

On page 160, between lines 2 and 3, insert the following:

''(D) ACTIONS IN FEDERAL COURT.—A cause of action described in subparagraph (A) shall be brought and maintained only in the Federal district court for the district in the State in which the alleged injury or death that is the subject of such action occurred. In any such action, the court shall apply the laws of such State in determining liability and damages. If such State limits the amount of damages that a plaintiff may receive, such limits shall apply in such actions.

On page 156, strike lines 15 and 16 and insert the following:

subsection.

''(o) LIMITATION ON CLASS ACTION LITIGATION.—

''(1) LIMITATION.—

''(A) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative action claimant, or the group of claimants is limited to the participants, beneficiaries, or enrollees with respect to a group health plan established by only 1 plan sponsor or with respect to coverage provided by only 1 issuer. No action maintained by such class, such derivative action claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative action claimant, or group of claimants or consolidated for any purpose with any other proceeding.

''(B) DEFINITIONS.—In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

''(2) EFFECTIVE DATE.—Paragraph (1) shall apply to all actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act, and all actions that are filed not earlier than that date.''.

(2) RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.—Section 1964(c) of title 18, United States Code, is amended—

(A) by inserting ''(1)'' after the subsection designation; and

(B) by adding at the end the following:

''(2)(A)(i) No action may be brought under this subsection, or alleging any violation of section 1962, if the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated or provided a group health plan, or health insurance coverage issued in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974.

''(ii) In this subparagraph, the terms 'group health plan' and 'health insurance issuer' have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

''(B) Subparagraph (A) shall apply to actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act, and all actions that are filed not earlier than that date.''.

(3) CONFORMING AMENDMENT.—Section

Mr. SPECTER. Mr. President, I declined to enter into a time agreement because this is an amendment which deals with the complex subject of jurisdiction. I have long been a cosponsor for a Patients' Bill of Rights, and I was surprised to learn many years ago of the Federal preemption which precluded an injured patient—for example, where a family doctor recommended a specialist and the HMO refused to provide the specialist to the person and the person was injured, or perhaps died, and had no redress in the Federal courts because of the so-called preemption under ERISA.

It has seemed to me for many years that that was one of the problems that ought to be addressed. I compliment Senator MCCAIN, Senator KENNEDY, and Senator EDWARDS for the work they have done, and also Senator FRIST, Senator BREAUX, and Senator JEFFORDS for their companion bill, and what the managers have done here.

This amendment addresses what I believe, from my experience as a litigator in the civil courts, to be a very fundamental question of concern as to what courts these cases are going to be tried in. The very brief history of ERISA is that cases which have been brought under section 502 of ERISA are governed by what is called the doctrine of complete preemption, and that is where the cases involve contract interpretation, or so-called quantity of medical care.

Under ERISA, section 514, a plaintiff's case has been barred where it relates to an employee benefit plan, and that has been decided by the case law, and has been referred to as quality of care or medical malpractice. For many years, under ERISA, which was enacted in the 1970s, that barred any action at all. But as the courts saw the difficulty of this matter, there gradually came to be a loosening of the interpretation as noted succinctly in a Fifth Circuit opinion, Corporate Health Insurance v. The State Department of Texas, where Circuit Judge Higginbotham noted that the court had ''repeatedly struggled with the open-ended character of preemption provisions of ERISA and also the Federal Employers Health Benefits Act.''

The court noted that there had been a faithful following of the Supreme Court's broad reading of ''relate to'' in its opinions decided during the first twenty years after ERISA's enactment. Since then in a trilogy of cases, *DeBuono* v. *NYSA-ILA Med. & Clinical Services Fund*, 117 S.Ct. 1747 (1997); *California Div. of Labor Standards Enforcement* v. *Dillingham Constr., N.A., Inc.*, 117 S.Ct. 832 (1997); *New York State Conference of Blue Cross & Blue Shield Plans* v. *Travelers Ins., Co.*, 115 S.Ct. 1671 (1995), the Court has confronted the reality and had limited the application of that preemption so the cases were brought for medical malpractice in the State courts.

The provisions of the McCain-Edwards-Kennedy bill provide that where you have an action brought on contract interpretation or ''quantity of medical care,'' those cases will go to the Federal court, but where you have a claim which is brought for the ''quality of medical care,'' or so-called malpractice, those cases will go to the State court.

I suggest to my colleagues that to have the two courts handle the matters in that way will result in procedural

quagmire because if you have a case such as the following where a child is born to a mother who has a plan under an HMO which seeks to limit the hospital stay to 24 hours. The patient is then discharged and an unfortunate result happens to the child. There will be both claims under the so-called quantity interpretation of the contract and quality on medical malpractice.

That is illustrated in the case of *Bauman* v. *U.S. Healthcare*, 1 F. Supp. 2d 420, a case which was heard in the United States District Court for the District of New Jersey in 1998. In that case, and this illustrates the kind of an issue I am referring to, the HMO plan had policies which encouraged the discharge of a mother and a newborn within 24 hours after birth. Mrs. Bauman was discharged after that time elapsed, and the next day the Baumans' daughter fell ill.

The Baumans contacted the HMO and requested a home visit by a nurse. The HMO refused to send a nurse, and the daughter died of meningitis the same day. The Baumans brought an action against the HMO, the doctor, and the hospital, and they went into State court. The HMO removed the case to Federal court as they had a right to under ERISA.

The district court made a determination that counts under the complaint relating to the discharge decision were ''quality-of-care'' decisions, and the counts would be remanded to the State court. The district court said that the failure to provide the nurse was a ''quantity'' decision and, therefore, was preempted totally.

On appeal, the United States Court of Appeals for the Third Circuit, in a case captioned *In re U.S. Healthcare, Inc.*, 193 F.3d 151, reversed the district court holding that the claim was a quality decision.

The Bauman case illustrates the point about how hard it is to decide whether a claim is a ''quantity'' claim or a ''quality'' claim.

Under the McCain bill, the claim that the Baumans would bring if the McCain bill were enacted, would be in the Federal court on the issue of plan coverage because that is a determination of the ''quantity'' of medical care, but that the other claims would be brought in the State court. I suggest obviously that is a procedural quagmire.

The point is further illustrated by an opinion of the Court of Appeals for the Third Circuit in a case called *Lazorko* v. *Pennsylvania Hospital*, 237 F.3d 242, decided just last year, where the underlying facts show the plaintiff's wife was hospitalized for attempted suicide. She was released but continued to have thoughts of suicide. Her doctor refused to readmit her to a hospital, and thereafter, regrettably and unfortunately, she killed herself.

In the State court, the plaintiff sued the HMO. The case was removed to the Federal court where the counts on direct liability against the HMO were dismissed. The case was then remanded to the State court and then removed again by the HMO to the Federal court.

The Federal court dismissed some of the counts against the HMO but remanded the case to the State court because of the various vicarious liability claims which the plaintiff had against the HMO. On appeal, the circuit court reversed the district court on one liability count and remanded the case to the district court.

That is legalese, obviously, and very hard to present in the course of a floor statement in a Senate debate on this subject, but it is illustrative of a point that where you have a situation where an HMO covers certain kinds of treatments for medical illness and you have a question as to the coverage, under the McCain bill that claim would go to the Federal court, but if there is a claim on malpractice, failure of the doctor to exercise ordinary care, that case would go to the State court.

There is no doubt that with the long history which the Federal courts have had on interpreting ERISA that there is going to be the first line of jurisdiction, and appropriately so, in the Federal court.

My amendment would provide that the Federal court would have exclusive jurisdiction over all of the claims. In a situation where the HMO would have its case heard in the Federal court, the Federal courts frequently will retain jurisdiction over the doctors, the nurses, and the hospital, and the other parties where the matter would ordinarily go to State court on what is called pendent or supplemental jurisdiction.

Again, it is very complicated. It does not lend itself to a short time agreement, but the upshot of it is that if you have the provisions of the McCain bill which give jurisdiction to the Federal court on contract interpretation or ''quantity of care″ and jurisdictions in the State court on malpractice or ''quality of care'', a plaintiff is going to have to go to two courts to get both of the claims adjudicated which is, as I say, a procedural quagmire.

The amendment which I have proposed would give appropriate deference to State law by providing that it would be the law of the State where the incident occurred which would govern the lawsuit. That is to say that the damages would be determined by State law and damages do vary among the 50 States.

Also, if the State had a cap or a limit on the amount which could be collected, that would be determinative when the case is brought in the Federal court.

This is very much like the diversity cases where jurisdiction resides in the Federal court, where the plaintiff is a resident of one State and the defendant is a resident of another State. A simple illustration would be if a patient from Camden, NJ, is treated in a Philadelphia, PA, hospital by a Philadelphia physician and there is an allegation of malpractice, negligence on the part of the physician and the hospital, then the resident of the State of New Jersey could sue in the Federal court with requisite jurisdictional amount, but it would be the law of Pennsylvania which would govern, or the plaintiff could sue in the State court of Pennsylvania. State courts would have jurisdiction.

Once you bring the HMO into the picture and you have what is traditionally under ERISA, it has to start out in the Federal court at least as the contract interpretation and ''quantity of care.'' That is why it is my view, my legal judgment, that it is necessary to avoid the procedural quagmire to have the Federal court have jurisdiction over the entire matter.

The question has been raised as to choice of law and venue, the question raised by my distinguished colleague from Tennessee, and I specified in the legislation that it would be the place of the incident which would determine the applicable law. Again, liability varies from State to State and venue has an important place. We want to avoid the potential of judge shopping so that the choice of law and the determination of venue would be where the incident occurred.

There is another important aspect to the litigation in the Federal court because of a feeling of a greater confidence in the Federal judicial system than in some State court judicial system. This is a touchy point, but it is one which the Judiciary Committee examined in some detail last year in considering the question of amending diversity jurisdiction in class action cases. Class action is when plaintiffs join to sue a defendant. There had been, for illustrative purposes, a case which had been denied class action status by the Court of Appeals for the Third Circuit, and the plaintiffs then went to Louisiana, to a favored county, and instituted the class action case and had the class action certified.

Diversity jurisdiction is easily defeated in a class action matter because if you have many plaintiffs, as you do in a class action, and a single defendant, all you have to do to avoid diversity jurisdiction is to have one of the plaintiffs a resident of the same State as the defendant. In order to have a diversity jurisdiction in the Federal court, all the plaintiffs have to be from a State other than the residence of a defendant.

In the Judiciary Committee report on this subject, the following facts of findings were made:

> Some State court judges are less careful than their Federal court counterparts about applying the procedural requirements that govern class actions.

That appears on page 16 of the report of the Judiciary Committee reporting this bill out at a 10–8 vote.

On the next page, page 17, appears the following statement:

A second abuse that is common in State court class actions is the use of the class device as ''judicial blackmail.'' That is a fairly strong condemnation in citing that criticism of the State courts. I do not suggest the impugning of all State court judges everywhere. But there is a considerable difference in many States in the quality of the courts where you have electoral process in many States, contrasted with the Federal system of life tenure, where I believe it is fair to say it is generally accepted that the caliber of the Federal courts is better, at least as a generalization.

There has been a great deal of concern expressed by some about the unlimited potential that would be present in a Patients' Bill of Rights in exposing defendants, HMOs, and employers to very high verdicts which would increase the cost of health care. So there is some assurance, I think fairly stated, by having the cases brought in the Federal courts.

I think it is useful to cite a couple of other illustrations abut the underlying concern which I have about the procedural quagmire which occurs. One of the two cases I intend to cite additionally—but I shall not cite many of the other cases, and there are many illustrative of this proposition—is the case of *Pryzbowski* v. *U.S. Healthcare, Inc.*, 245 F.3d 266, decided by the Court of Appeals for the Third Circuit earlier this year. The plaintiff had back problems, sought surgical treatment, the HMO delayed a decision for months, the plaintiff went to State court, suing the HMO for medical complications occasioned by the delay. The HMO removed the case to the Federal court where the Federal court dismissed the claims against the HMO, finding that they were ''quantity determinations'' and therefore preempted under ERISA section 502. The district court also found that claims against the primary care provider were expressly preempted by section 514 and dismissed those claims, as well. The Court of Appeals for the Third Circuit vacated the findings and remanded the case to district court to make further findings. The appellate court noted that the claims against the primary care provider raised both ''quality'' and ''quantity'' issues and, on the record before it, the court could not decide which applied in this case.

So not only do you have the provisions of the pending bill, which would send a plaintiff to two different courts on what is essentially the same situation, but even have the courts unable to draw a bright line between what is ''quantity'' and ''quality.''

Another case which is illustrative of the problem is *Corcoran* v. *United Health Care Inc.*, 965 F.2d 1321, heard in the United States Court of Appeals for the Fifth Circuit in 1992, where a patient was pregnant, and her doctor recommended complete bed rest and hospitalization so that he could monitor the fetus. The patient's doctor sought precertification from the HMO for a hospital stay. The HMO denied the request and authorized only 10 hours per day of health nurse services at home. Subsequently, the fetus regrettably went into distress and died at a time when the home health nurse was not on duty. The Corcorans, parents of the deceased child, brought suit in the State court which then had it removed to the Federal court, with the HMO arguing that they had not made a medical decision on ''quality'' but only a decision as to what benefits were covered under the health plan which was preempted by ERISA. The court concluded that the HMO gave medical advice, but in the context of making a determination about the availability of benefits under the plan, and as such the court found the Corcorans' claim was preempted by ERISA.

So there you have a curious situation of what is viewed as a medical decision but again, preemption, because it was held to relate to a determination of benefits under the plan.

The amendment would give jurisdiction to the Federal court on both of the claims so that when any one of these plaintiffs, such as a mother who is delivering a baby and has a limitation of 24 hours in the hospital and has a claim both as to coverage and as to malpractice, she could bring the case into Federal court, where State law would apply as to damages, and if there was a cap on damages in that State, that cap would apply.

I am a cosponsor of the bill and I, too, intend to support the bill. But I do believe that this sort of a jurisdictional clarification is indispensable if we are to avoid having a plaintiff compelled to litigate in two courts with that kind of multiplicity of action.

I ask the manager of the bill to engage in a discussion, if the distinguished manager would be willing to do so, or if a co-manager would be more appropriate to talk about the operation of the plan, if I may have Senator KENNEDY's attention. I direct a question to my colleague from Massachusetts and raise the issue as to whether it would be more appropriate to discuss the matter with the Senator from North Carolina on this issue, but the question I have relates to the McCain-Kennedy-Edwards bill where you have a case, taking the illustration of the underlying facts that I gave in the Lazorko case. Where you have an HMO, which covers medical care, and a woman being in a hospital for attempted suicide being released and the HMO refusing to readmit her, and thereafter she killed herself—isn't it true that the claims which were brought, say in Lazorko, which raised questions of interpretation of the plan, would be brought in the Federal court and the cases on malpractice would be brought in the State court under your bill?

Mr. KENNEDY. Mr. President, I do not expect we will be able to litigate a case on the floor. I am not familiar with the facts in that particular situation.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Massachusetts does not have the floor; the Senator from Pennsylvania does. Who yields time?

Mr. SPECTER. Did the Senator from Massachusetts suggest the absence of a quorum?

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor; the Senator from Massachusetts does not.

Mr. SPECTER. I do not intend to litigate a case on the Senate floor. So without referring to a specific case, I ask the Senator from Massachusetts, is it true that under his bill a claim which calls for interpretation of coverage of the insurance contract for so-called ''quantity of care'' would be brought in the Federal court, and a claim which might—which would arise out of the same occurrence, which involved malpractice, or a ''quality'' case—would that not, under his bill, be brought under the State court?

Mr. KENNEDY. I say to the Senator, it is my understanding of the case, the facts we have to date with that particular issue, following the Supreme Court holdings in the Pegram case, this would be tried in the State court.

Mr. SPECTER. Madam President, I would press the question as to the interpretation of the insurance contract, which defined the rights of the parties under the contract. Isn't it plain, under your bill, I say to Senator KENNEDY, that this is a matter which goes to the Federal court?

Mr. KENNEDY. The understanding of our position on this issue is that the Supreme Court in Pegram said, when there is a dual issue involved in terms of the medical decision and the contract decision, as the Senator knows, on medical issues decided in the State contract, in the Federal courts, and where there is a mix of those, the predominance of these issues being medical, it would be tried in the State court.

Mr. SPECTER. Madam President, I suggest that is at variance with the provisions of the Senator's bill. I will cite the exact citation here.

At page 140, if I might call it to the attention of the Senator from Massachusetts, section 502 of ERISA, which is brought in the Federal court, and at the bottom, line 24:

(I) regarding whether an item of service is covered under the terms and conditions of the plan or coverage,

So that is a section where you have Federal court jurisdiction, and that

would be the issue, as to interpretation of a contract to determine coverage.

I ask the Senator from Massachusetts if that is not an accurate citation of the Senator's bill?

Mr. KENNEDY. No. No, it is not. The Senator would be reading it out of context:

Cause of action must not involve a medically reviewable decision.

The Federal cause of action excludes the medically reviewable decision. That is on page 142, line 6.

Mr. SPECTER. If I might have the attention of the Senator from Massachusetts, on the preceding page, 139, section 302 talks about the ''availability of civil remedies.''

(a) Availability of Federal Civil Remedies In Cases Not Involving Medically Reviewable Decisions.

Mr. KENNEDY. Yes.

Mr. SPECTER. Going on to 140.

Mr. KENNEDY. The Senator is correct, and that is consistent with my earlier remarks.

Mr. SPECTER. If I may be permitted to finish my sentence, since I do have the floor——

Mr. KENNEDY. If the Senator wants a response, I am trying to respond to those highly technical questions the best way we can.

Mr. SPECTER. I do want a response, but not in the middle of my sentence or the middle of my question.

But to go forward here on the availability of Federal civil remedies in cases not involving medically reviewable decisions, this covers, line 24–25:

regarding whether an item of service is covered under the terms and conditions of the plan or coverage,[.]

My question to the Senator from Massachusetts: Isn't that an explicit conclusive statement that, if it is a matter of interpreting a contract as to what service is covered under the terms and conditions of the plan or coverage, that is a Federal remedy? That is what it says in black and white, doesn't it? I ask Senator KENNEDY.

Mr. KENNEDY. The Senator is wrong. That is taking it out of context. The fair way is to read the complete paragraph and go on to the next page.

Mr. SPECTER. Madam President, if the Senator cares to read the next paragraph, where he makes a claim of being taken out of context, I would be interested in hearing him read any such paragraph.

Mr. KENNEDY. I have referred to that earlier, page 142, line 6. The coverage decision depends on a medically reviewable issue. On the matters dealing with the medically reviewable issue, the Supreme Court has indicated that it would be decided in the State courts. That is essentially what we have included in this language.

Mr. SPECTER. Madam President, I agree with the general delineation that it was a medically reviewable decision. That is called ''quality of care,'' as I have said before, and is a malpractice issue. But the question which I have directed to the Senator from Massachusetts is a much narrower question.

To repeat, is this not a question on the interpretation of the contracts, specifically where an item of service is covered under the terms and conditions of the plan for coverage? That is my question. The interpretation of ''an item of service is covered under the terms and conditions of the plan for coverage'' is a matter for the Federal court.

I believe it is plain from the language on 139 to 141 that it is a Federal matter. But if you move to an interpretation of what is medical malpractice or a breach of duty by a doctor on what is a medically reviewable decision, then that is a matter which goes to the State courts. And this legislation does not continue the preemption of existing law.

If I might have the attention of the Senator from North Carolina, Madam President, this is an issue which my distinguished colleague from North Carolina and I have been discussing for several days. And this morning in my hideaway we discussed the complications, at least as I saw them, on having the provisions of the pending bill which deal with this complex dichotomy of an interpretation of contract coverage, which is set forth at line 24, 25 on page 140 over to lines 1 and 2 on 141, which comment regarding an item of service covered under the terms and conditions of the plan for coverage which comes under the category of availability for Federal civil remedies. Then if you move over to a medically reviewable decision on medical malpractice, there is the difference.

Is my interpretation correct that the legislation provides for cause of action in different courts, No. 1? It is the coverage of the contract, or what the courts have called ''quantity'' malpractice and what the courts have called ''quality.''

Mr. EDWARDS. If the Senator would repeat the question, it is difficult for me to hear.

Mr. SPECTER. I would be glad to repeat the question. As the Senator and I were talking this morning, isn't it accurate that the courts have made a distinction in ERISA, section 502, on what is contract coverage or ''quantity'' with complete preemption under existing law?

Mr. EDWARDS. My understanding is—as the Senator said, we talked about this earlier today—that has traditionally been the case. I think there has been, I think, some erosion on that during the last few years. I think the Senator is correct. There have been a number of court rulings in that respect.

Mr. SPECTER. Madam President, I agree with the Senator from North Carolina. There has been erosion on the preemption of 514 where the courts have really seen the inequities of denying injured parties relief, and instead of being under 502 with ''quantity'', they have tried to move the cases into ''quality'' with the broader interpretation where some relief has been granted.

I am a cosponsor of the amendment. As I said earlier, one of the concerns that I candidly expressed a decade ago was my surprise over the reach of the preemption of ERISA. It seemed to me to be unfair to deny injured plaintiffs redress in the courts because of the preemptions which were really designed originally under other kinds of benefit plans and not under health maintenance organization plans. When the HMOs came into being, they took the benefit of the same kind of preemption.

But in this legislation you have the dichotomy where some cases are heard in the Federal courts as they relate to ''quantity care'' or interpretation of the contract, and other cases or the same case may be heard in the State court as it relates to a medical malpractice or the ''quality of care.''

My question to the Senator is, isn't that an accurate statement?

Mr. EDWARDS. Again, I am having a little trouble hearing you. If the Senator said that the separation under our legislation between the contract causes of action, which have traditionally been considered ERISA causes of action, go to Federal court and in the case of the medically reviewable decision cases go to State court, that would be accurate.

Mr. SPECTER. The concern I have, having gotten an understanding on the applicability of the statute, which the Senator and I are in agreement with, is, how is it going to work? I characterized it, while the Senator was off the floor, as a procedural quagmire.

If you have a case—and I cited a couple of them—where a child is born, and the mother has an HMO which encourages release from the hospital within 12 hours, and the child, unfortunately, dies—and I cited a specific case—and then you have a series of claims which were brought by the plaintiff and one of the claims involves interpretation of the contract, is that care covered by the contract?

Then if there are other claims for negligence on the part of the doctor or hospital, that would then fall under the amendment of the Senator from North Carolina under State court jurisdiction.

I cited another case where you had a woman who was suicidal, she was released from the hospital, the doctor wanted to put her back in, and the HMO wouldn't let him do that. She committed suicide. A suit was brought and the HMO defended it on the ground that it wasn't covered. That went from

the Federal court. They dealt with the exclusive preemption under 502. But the aspect of ''quality of care'' is a State court action. You have perpetuated that.

It is very difficult, obviously, to move totally away from Federal jurisdiction under ERISA on the interpretation of the contract because there is so much law on the subject. I know my colleague will agree with me on that generalization.

What happens when you have the suicide? The mother of the infant is released from the hospital within 24 hours, and the claims are made. They are essentially the same claims. They are claiming that they are covered under the contract. They are claiming personal injuries, loss of earning potential, or for the woman who has committed suicide, loss of earnings, loss of consortium, the whole range.

Having litigated some of these cases, you more recently than I. But the essential claims are going to be the same: Personal injuries for both the claim for coverage and ''quantity of care″ as opposed to the claim for ''quality of care'' or malpractice.

So how is it going to be resolved with two separate courts, Federal court having jurisdiction over ''quantity,'' and State court having jurisdiction over ''quality?''

Mr. EDWARDS. I think——

The PRESIDING OFFICER. The Chair reminds Members to address each other in the third person and to address the questions through the Chair.

Mr. SPECTER. Nunc pro tunc.

Mr. EDWARDS. I would answer the Senator's question by saying that under the examples given, if I understood them correctly, most of those examples would involve interpretation of contract language in the context of a medically reviewable fact.

So I believe under our legislation those, in fact, go to State court. I say to my colleague, if there is any medical fact interpretation involved, I believe those cases go to State court. So I think under the examples given, all of the cases would end up in State court.

Having said that, though, in fairness to the Senator, I can imagine circumstances—I don't think the Senator's examples meet it—where there could be a medically reviewable decision which would go to State court and also there could be a claim that the contract was breached separate and apart from that, which I think is the issue the Senator is raising.

Mr. SPECTER. Madam President, I would accept the modification by my colleague from North Carolina. I think the citation I gave has a contract claim. But rather than disagree about that, since the Senator from North Carolina acknowledges there could be some cases, I will take another case whereas the Senator from North Carolina says there could be that kind of distinction.

I ask the Senator, through the Presiding Officer, then in your bill what do you do in that situation where you have the Federal court controlling—in the language of the statutes—''whether an item or service is covered under the terms and conditions of the plan or coverage'' and other aspects of the same set of facts are covered under medically reviewable factors?

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

Mr. SPECTER. I would be glad to yield as soon as I get this answer.

Mr. GREGG. It is just a technical question. The answer might be better if he has time to think about it.

Mr. SPECTER. Well, it is too late now to retain the continuity without yielding, so I do yield.

Mr. GREGG. I thank the Senator and apologize for breaking the continuity. I think building the record on this issue is very important.

We are trying to get a sense of the situation, so we can tell our membership what they are going to be doing this evening. After your amendment is completed, we will have three votes lined up. I wonder if we could agree that we would begin the vote on those amendments at sometime around 6:45.

Mr. SPECTER. Madam President, I am not able to specify when because the Senator from North Carolina and I are in the midst of what I consider to be an important colloquy. But I will try to keep it as brief as possible.

Mr. GREGG. I thank the Senator.

Mr. SPECTER. The question, Madam President, that I ask the distinguished Senator from North Carolina is, in taking his conclusion that there are some cases which would involve contract interpretation, and the same case would involve a medical malpractice determination, what do you do when the contract interpretation has jurisdiction in the Federal court and the medical malpractice has jurisdiction in the State court?

Mr. EDWARDS. Madam President, I would say, in answering my colleague's question, that in fact I am having difficulty imagining a case right now. The vast majority of cases similar to what we have just been discussing would fall within the category of a contract interpretation involving a medically reviewable fact. So I think, at least of all the examples that occur to me as I stand here, those cases would all end up in State court.

As the Senator and I have spoken about on a number of occasions, he has a concern—and I understand it—about the possibility of there being some confusion about which cases go to State court and which cases go to Federal court. We think we have defined that fairly well in our bill.

I might add, in response to the Senator's question, that there is a principle involved in this which we have not discussed, which is that physicians, hospitals, and health care providers believe—and I agree with them—if an HMO is going to overrule their decision and engage in the practice of medicine, they ought to be treated the same way they are treated.

As the Senator knows, their cases are normally handled in State courts. So I think conceptually we start with the principle that HMOs should be treated the same as other health care providers when they make medical decisions.

No. 2, I say to my colleague that what we are doing is taking a Federal protection curtain that was unintended for HMOs when it was passed—because they basically did not exist—and lifting it. The effect of lifting it is they become subject to State court law.

So I think it is consistent in that respect. As the Senator and I have talked about before, it is also consistent with the fundamental concept that HMOs, if they are going to engage in the practice of medicine, ought to be treated as other health care providers.

I yield back to my colleague.

Mr. SPECTER. Madam President, I agree completely with my colleague from North Carolina that when HMOs engage in the practice of medicine, they ought to be treated like physicians.

But coming back to the distinction in the Edwards bill, which does have a provision on coverage as distinguished from medically reviewable decisions, there are two thoughts which occur to me. You have a whole body of case law—dozens of cases—which have wrestled with factual situations on coverage, whether a plan covered the specific item: The infant in the hospital for 24 hours; or the woman who was suicidal, whether the plan covered further hospitalization for her. And then those cases also involve counts on medical malpractice, on ''quality.''

So it seems to me it is very hard for my colleague from North Carolina to argue that it is not a commonplace occurrence to have specific cases arise where under his bill they would go to different courts. And then the express language of the Edwards bill has a delineation between medically reviewable decisions on malpractice and a category—''whether an item or service is covered under the terms and conditions of the plan or coverage.''

So I would direct perhaps only two more questions to my colleague from North Carolina—and I say perhaps.

The first question is—and I address this question through the Chair—isn't it conclusive where the Edwards bill has language which distinguishes ''whether an item or service is covered under the terms and conditions of the plan or coverage,'' as distinguished from medically reviewable decisions, that the Edwards bill contemplates these two categories, which under the Edwards bill are going to go to two different courts?

Mr. EDWARDS. Again, if I correctly understand the Senator's question——

Mr. SPECTER. I can understand the difficulty, Madam President, when people are whispering to him all the time. That is why I keep my people off the floor.

Mr. EDWARDS. I am trying very hard to listen to the Senator.

Madam President, if I may respond to the Senator's question, the answer to the question is: I really think there is a fundamental question that the Senator and I may have some disagreement about, which is contract interpretations that involve medically reviewable facts under our legislation go to State court. I believe that all of the examples the Senator has mentioned and all the examples I can think of would fall in that category.

Specifically as related to his concern about the possibility of there being two separate courts with jurisdiction, I think, in fact, that is not only highly unlikely but I can't think of a fact situation, as I stand here now, that would meet that criteria.

What we have done is to have a principle, and we have designed this bill around that principle. The Senator knows very well that this is the principle that was discussed in the Pegram case, a U.S. Supreme Court case, principle supported by the State attorneys general, the American Bar Association, this separation. It is a concept that makes sense in this context.

No legislation is perfect. We certainly can't eliminate the possibility that there may be in a hypothetical case some joint jurisdiction, but I can't think of such an example.

Mr. SPECTER. Madam President, I will direct this question to my colleague from North Carolina: How do you account for the many, many cases which have been litigated distinguishing between contract coverage, where really the language in the Edwards bill ''whether an item for service is covered under the terms and conditions of the plan,'' and a medically reviewable decision, where so many courts on so many cases labored with those distinctions, if, in fact, there aren't many cases where they are going to end up in different courts under the Edwards bill?

Mr. EDWARDS. Madam President, if I may respond to the Senator's question briefly, I believe it is because we have created a presumption that if the contract interpretation involves a medically reviewable fact, which is going to be the vast majority of cases—all the cases I can think of, as I stand here—those cases go to State court.

Those are the kinds of cases to which I believe the Senator is referring. I don't think the problem the Senator is addressing is one that is likely to occur in real life. We have specifically dealt with the issue of when there is a question, if it involves a medically reviewable fact, those cases go to State court.

Mr. SPECTER. Madam President, if it is unlikely, even with the brilliance and conceptual imagination of the Senator from North Carolina—he can't think of one—to occur in real life, why put this jurisdictional provision in the bill?

Mr. EDWARDS. Because there are two separate categories, if I may answer the Senator's question. There are two potential causes of action. If it involves any issue relating to medical care, specific medical fact, those cases go to State court. We treat the HMOs just as the doctor because they are engaging in the practice of medicine. If, on the other hand, the issue is one of were they covered for 60 days as the contract provided, do they meet some other specific contractual requirement, those are purely contractual issues that have been decided in Federal court for many years under ERISA. So we left those cases where they have traditionally been decided, which I think is the appropriate place to leave them.

Mr. SPECTER. Madam President, if you do have those contract decisions, isn't it entirely possible that there may be a factual situation arise where there is a matter of malpractice or a medically reviewable decision involved in the same occurrence?

Mr. EDWARDS. I would answer my colleague's question exactly the way I have before, which is, absent a presumption in our bill that if there is an involvement of a medically reviewable fact, I think the Senator's concern would be one that I would share. But we have dealt with that issue by specifically saying where the contract interpretation involves a medically reviewable fact, those cases go to State court. Those, in my experience and in my judgment, I believe will be the same cases that the Senator is describing as cases, I think he used the term, of medical malpractice.

Mr. SPECTER. Madam President, as they say in Oklahoma, we have gone about as far as we can go on this colloquy. I would advise the managers of the bill that I will be prepared to conclude my argument by 6:45.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent that if the other side does not require any additional debate, we begin the votes on the three pending amendments, which would be, in order, the Snowe amendment, the Enzi amendment, and the Specter amendment, beginning at 6:45.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object, we need Senator SNOWE to have 10 minutes, and she needs to offer a modification.

Mr. GREGG. We also need to have 2 minutes on Senator ENZI's amendment prior to his vote. So we would have 10 minutes prior to the Snowe amendment and 2 minutes prior to the Enzi amendment. And Senator SNOWE would have the right to modify her amendment.

Mr. REID. I accept that as a unanimous consent agreement in line with what we previously offered except for the time.

Mr. GREGG. I would have to add that it is my understanding Senator ENZI may divide the question on his amendment. That is his right, as I understand it; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. If the Senator desires to divide his amendment, he may do so.

The PRESIDING OFFICER. Does the Senator wish the 10 minutes dedicated to Senator SNOWE to start at 6:45 or to begin now?

Mr. GREGG. It should begin prior to the vote.

Mr. REID. We are going to vote on the Specter amendment at 6:45.

Mr. GREGG. We are going to vote on the Specter amendment.

Mr. REID. At 6:45.

Mr. GREGG. We are going to vote on Snowe and then Enzi and then Specter.

Mr. REID. We do need Senator SNOWE here.

Mr. GREGG. She will be here. So 10 minutes on the Snowe amendment would begin at 6:45.

Mr. REID. Or when she arrives.

Mr. GREGG. Or when she arrives. And the votes would begin thereafter.

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

Mr. REID. Madam President, these are on or in relation to the amendments as per the previous oral agreement?

Mr. GREGG. Right.

Mr. REID. I thank the Chair. The Senator from Pennsylvania has the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I believe the colloquies with the Senator from Massachusetts and the Senator from North Carolina have made my point. That point is that there is jurisdiction created under the McCain-Edwards-Kennedy bill in two courts. There really is no doubt about that because section 302 provides for the availability of Federal civil remedies, and that covers whether an item of service is covered under the terms and plans and conditions, and later there are medically reviewable decisions in State courts.

Although there can be an inconclusive colloquy, as there is no confession or admission on the floor of the U.S. Senate, I think it is pretty plain that there are cases—and I have cited a whole series of specific cases in my presentation, Bauman, Pryzbowski, Lazorko, and Corcoran—where you had factual situations where you have an interpretation of a plan which would

come under Federal jurisdiction—such as the mother's stay covered for more than 24 hours, the suicidal woman's coverage extended for hospitalization under that circumstance—then a combination of failure to have a plan coverage and also medical malpractice. And you have both claims brought.

And under the McCain-Kennedy-Edwards bill, it is plain that those two claims would be brought in separate courts beyond any question. It is not a matter of what the distinguished Senator can imagine. You have case after case which have had these interpretations, contract interpretation and ''quantity of care,'' and that goes to the Federal court. And then you have ''quality of care,'' and that goes to the State court.

I am not unaware of the realities of votes in this Chamber where a coalition has been formed, and there is a mindset. But I do hope that the managers of this bill will revisit this situation after this vote and when the bill goes to conference because having both these courts available is going to double the burden on plaintiffs who are injured—to make a contract interpretation claim in the Federal court and to go to the State court to make a medical malpractice claim—and it is going to require double expenses by the HMO, by the doctors, and by the hospitals—although you might have the doctors and hospitals eliminated from the Federal litigation, but the HMOs will certainly be there; and that is highly undesirable.

I have a grave concern about the speed of passage of this bill. Now, it is true we have been considering the Patients' Bill of Rights for a long time—many years. Too long. But this bill has come to the floor without the benefit of committee action, without the benefit of a markup; and what there has been is sort of a moving target markup of this bill on the floor by the committee of the whole, as we have gone through many amendments. But it simply cannot be denied that there are two sections of this bill, one conferring Federal jurisdiction and one conferring State jurisdiction, and the same factual situation would raise questions under both court systems, and this bill would require litigation in two courts.

That is very wasteful and very confusing. To call it a procedural quagmire is not an overstatement. The answer is fundamental, and that is to provide for exclusive Federal court jurisdiction, which I have in this legislation. You might argue that it could go to the State court and that would be an improvement rather than have both State and Federal courts. But it is very hard to move exclusively to the State courts where you have the long body of law built up under ERISA as to what is a plan's coverage. So given the fact that you are going to inevitably end up in the Federal court, the Federal court ought to be exclusive jurisdiction. And as the amendment provides, the damages will be determined by State law, no new Federal caps, but whatever State caps there were would be in effect.

I see my colleague from Illinois on the floor. He commented to me that he agreed with the provision that there ought to be unitary jurisdiction, but thought it ought to be in the State court. I will yield to the Senator from Illinois if he cares to use the limited time remaining.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FITZGERALD. Madam President, I did want to, in part, agree with my colleague from Pennsylvania. I think he has identified an important problem that exists in the underlying bill. I have long favored creating liability for HMOs that harm someone because of their negligence. Right now, HMOs are protected. They are immune from liability, and that is a protection that almost no other individual or corporation has in this country, and I don't think it is defensible.

For the last 2 years, I have been voting regularly to make HMOs liable where they have been negligent. But I do think we have a problem in this bill in that we create State court tort liability by repealing the ERISA immunity in one part of the bill. That is on page 157, I believe. But then, at the same time, we create also tort liability, as well as more contract liability, and there already is contract liability under ERISA in Federal court.

The problem I see is that there are tort causes of action authorized in this bill both in State court and in Federal court. I have always thought the playing field was tilted in favor of HMOs, and that playing field needs to be leveled. But I am concerned now that if this effect in the underlying bill is not remedied, the playing field will be tilted in the opposite direction.

The PRESIDING OFFICER. The hour of 6:45 having arrived, under the previous order, the Senator from Maine is to be recognized.

AMENDMENT NO. 834, AS MODIFIED

Ms. SNOWE. Madam President, I ask unanimous consent to modify the amendment that has been offered by Senator DEWINE, Senator LINCOLN, and Senator NELSON and send a modification to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 834), as modified, is as follows:

(Purpose: To make technical corrections concerning the application of Federal causes of action to certain plans)

On page 2 of the amendment, between lines 9 and 10, insert the following:

''On page 144, lines 7 and 8, strike 'or under part 6 or 7'.''.

On page 3 of the amendment, strike line 14 and all that follows through line 21 and insert the following:

''(ii) DEFINITION.—A group health plan described in this clause is—

''(I) a group health plan that is self-insured and self administered by an employer (including an employee of such an employer acting within the scope of employment); or

''(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

On page 11 of the amendment, line 16, insert after the period the following: ''The provisions of this paragraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.''.

Ms. SNOWE. Madam President, it is modified in the following way. First of all, the question was raised about the original intent of the amendment in regard to the self-insured, self-administered plans. Specifically, with regard to contractual dispute, it will only exempt from liability employer and union plans that are self-insured and self-regulated, again applying symmetry to all of the plans regarding self-insured and self-administered, so we do not make any exceptions. So we address that by modifying it to ensure that both employer and union plans are consistent with the legislation.

Secondly, because insurance plans are already regulated at State and Federal level with regard to assets and other issues, we assure that these regulated plans are not subject to a new Federal solvency plan to qualify as a designated decisionmaker. As a result, the solvency standard in this amendment will appropriately apply to non-health insurance designated decisionmakers.

Finally, we also make a technical correction in the legislation to ensure that the causes of action are not inadvertently opened to other statutes that are already a matter of law. This change reflects the intent of our amendment to prevent the filing of lawsuits in a broader, more undefined number of issues.

I urge adoption of the modification as well as the underlying amendment.

Again, I remind my colleagues that this was an effort to address many of the legitimate issues that were raised regarding employer liability. It was a consensus that was drafted along with my colleague from Ohio, Senator DEWINE, Senator LINCOLN, and Senator NELSON. I also thank Senator MCCAIN, Senator KENNEDY, Senator EDWARDS, as well as Senator GREGG and Senator FRIST, for working together to make this amendment possible. We thought it essential that we develop precise and clear guidelines in terms of how we establish employer liability but at the same time protecting patients' rights

with their ability to seek legal redress when there is inappropriate care or denial of care.

We think we have developed and crafted the amendment in a way that creates the bright line and the firewall so that we do provide the necessary protection to employers, so that we limit and, in fact, in most instances I think prevent any exposure to liability. They can confer that liability and risk to the designated decisionmakers and therefore they will have that kind of liability protection, and patients will have their ability to be able to sue in those instances where they have been denied care or there has been wrongful injury, personal injury, or even death.

I think it strikes the right balance. The consensus represents the optimum approach to providing the kind of basis for removing an employer's exposure to litigation when they are not directly participating in medical decisions.

We hope this will satisfy the concerns that have been raised by the original legislation. We think we crafted the best approach, borrowing both from the McCain-Edwards-McCain legislation as well as the Breaux-Frist-Jeffords approach.

Again, I urge adoption of this amendment, as modified, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, I am proud to cosponsor amendment No. 834 with Senator SNOWE and my other colleagues. It addresses an issue important to all of us here—protecting employers from undue liability. This amendment clarifies any confusion about who is responsible for medical decision-making.

Under this amendment, employers who generally do not make medical decisions anyway—will be able to name a designated decision maker. If they contract with an insurance company, that company is automatically given the status of designated decision maker. The employer doesn't have to take any further action.

Once designated, this entity will have the authority to make medical decisions. And with this authority, the designated decision maker—not the employer—will have the responsibility for those decisions if they result in harm to the patient.

I believe this amendment serves as an important compromise. It enables employers to feel more comfortable offering their employees health benefits. And that's certainly something we want to encourage. But it also protects patients, and ensures that they receive all the protections provided under the Patients' Bill of Rights.

Mr. GREGG. Madam President, I understand the Parliamentarian has ruled that I have 5 minutes.

The PRESIDING OFFICER. There is 5 minutes in opposition.

Mr. GREGG. Madam President, unless somebody else is seeking that time, I will speak. I congratulate the Senator from Maine and the Senator from Ohio for adjusting this amendment. The changes they made in this amendment are very positive. The amendment moves in the right direction.

However, it must be made clear this amendment targets one narrow aspect of the concerns of this bill, and, in fact, there are still some issues in that aspect. Specifically, employers are going to have a very difficult problem figuring out whether they are a direct participant or whether they fall under the designated decisionmaker safe harbor.

There are issues within this narrow issue that are very significant.

The greater issues on the question of liability still remain very viable. It is of serious concern to those of us who look at this as extremely expensive legislation in the sense it will drive up health care costs and result in a lot of people losing their health insurance. Employers will drop the health insurance because of the liability aspects being thrown at employers in this bill and the costs employers simply are not going to bear. They will drop health insurance or reduce the quality of health insurance.

The estimates of CBO are in the range of 3.1 million, and OMB estimates are in the range of 1 million to 4 million people will lose health care. I think it will be literally tens of millions of people who will see the quality of their health care insurance degraded as their employers start to adjust.

As to this specific amendment, which is a narrow amendment, not an expansive amendment, the movement by the Senators from Maine and Ohio is to be congratulated. I thank them for it.

I yield back my time, and I yield the floor.

The PRESIDING OFFICER. Time is yielded back. The question is on agreeing to amendment No. 834, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 96, nays 4, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—96

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

NAYS—4

Grassley	Nickles
Hollings	Thompson

The amendment (No. 834), as modified, was agreed to.

Mr. GREGG. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Ms. STABENOW). There are now 2 minutes equally divided on the Enzi amendment.

The Senator from Wyoming is recognized.

AMENDMENT NO. 840

Mr. ENZI. Madam President, under the amendment we just agreed to, we made some progress on handling liability. But there is a group of businesses that were left out. You will never hear me in this Chamber talk about big businesses. I always talk about the small ones. None of these is headquartered in Wyoming. But I am compelled to put in an amendment that will take care of a major problem which will take care of health care at the level they know it for 6 million people in the U.S. who work for the big, self-insured, self-administered companies, such as Hewlett-Packard, Caterpillar, Wal-Mart, and Pitney Bowes. None of those is in my State.

This provides an option to allow one of two ways of providing insurance to their people so individuals can get the right to sue if they want that right or they can stay with the plan which they presently get all the benefits from without any difficulty. This provides that option for them.

This is providing an option so that the company can avoid liability by providing a liability option for their people.

I ask for your support on this amendment to clear up what the people in your State need.

I also believe it is my right to divide the amendment on page 3, line 18.

The PRESIDING OFFICER. The amendment is so divided.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, let me just mention what this amendment is all about.

If an employer gives options to any employee, it can offer a program that

is very inferior or it can provide a voucher that is inferior. You can't buy a good health insurance policy. If it offers those two options to any employee, and that employee denies it, then the employee who stays with that company is virtually excluded from bringing any action against the employer, no matter how involved the employer is in making medical decisions that can cause adverse reaction to that employee—either death or injury.

That is a lousy choice. This is an option many companies will take. It will be at the expense of the employees. They can get two inferior options. If they reject it and stay with the company, they are excluded from the benefits and the protections of this bill. It is going to open up a great exclusion for millions of hard-working Americans and their families. It should be rejected.

Mr. ENZI. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

The question occurs on division I.

The Senator from Nevada.

Mr. REID. Madam President, I move to table the whole amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. GREGG. Madam President, parliamentary inquiry: As I understand it, the question was divided. Is this a motion to table on the first part?

Mr. REID. Yes. That is true.

The PRESIDING OFFICER. That is correct.

Mr. GREGG. I thank the Chair.

The PRESIDING OFFICER. The question is on the motion to table division I.

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

The assistant legislative clerk called the roll.

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—55

Akaka	Dorgan	Lincoln
Baucus	Durbin	McCain
Bayh	Edwards	Mikulski
Biden	Feingold	Miller
Bingaman	Feinstein	Murray
Boxer	Fitzgerald	Nelson (FL)
Breaux	Graham	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Johnson	Schumer
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—45

Allard	Burns	DeWine
Allen	Campbell	Domenici
Bennett	Cochran	Ensign
Bond	Collins	Enzi
Brownback	Craig	Frist
Bunning	Crapo	Gramm
Grassley	Lott	Smith (NH)
Gregg	Lugar	Smith (OR)
Hagel	McConnell	Snowe
Hatch	Murkowski	Stevens
Helms	Nickles	Thomas
Hutchinson	Roberts	Thompson
Hutchison	Santorum	Thurmond
Inhofe	Sessions	Voinovich
Kyl	Shelby	Warner

The motion was agreed to.

Mr. KENNEDY. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 840 DIVISION II WITHDRAWN

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I ask unanimous consent to withdraw division II of the amendment.

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

The majority leader.

Mr. DASCHLE. Madam President, I announce to our colleagues that this will be the last vote of the evening. We will begin voting tomorrow morning at 9 o'clock on a series of votes on amendments that will be offered this evening. There is one more vote, but after that there will be no more votes.

AMENDMENT NO. 844

The PRESIDING OFFICER. There are 2 minutes now evenly divided on the Specter amendment.

Who yields time? Who seeks time?

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, this amendment provides for exclusive jurisdiction in the Federal courts. Under the bill, there would be jurisdiction in the Federal courts for interpretation of the contract's coverage or what is referred to as ''quantity of medical care'', and jurisdiction in the State courts for what is called medical malpractice or ''quality of care.'' That means that for a plaintiff to bring a claim, they would have to go into two courts, enormously more expensive, and it would involve removal to the Federal courts and bouncing back and forth.

This amendment gives due deference to the States by using any State caps which are in effect and provides for State law on the computation of damages. With the life tenure of Federal judges, the probability is high that the verdicts will be more realistic and more reasonable than we have seen in some of the State courts.

In the colloquies with the managers of the bill, it is obvious that there are many of these cases which involve both ''quantity'' and ''quality.'' During the floor presentation, I went over a number of cases where they bounced back and forth.

I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Madam President, I have great respect for my colleague's expertise in this area. I appreciate very much his work. He and I have talked about this a number of times. The problem is that this amendment violates a fundamental principle on which we have based this entire legislation. That is, when HMOs and health insurance companies make medical decisions and overrule doctors, they should be treated exactly the same way doctors are treated. That is the reason our bill sends these cases to State court. It is the reason this is so critical for the AMA and medical groups all over this country.

They want the HMOs, if they are going to be in the business of overruling doctors' decisions, to be treated exactly the same as doctors and exactly the same as other health care providers.

For that reason, I reluctantly must oppose this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 844.

Mr. SPECTER. Madam 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.

The result was announced—yeas 42, nays 58, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—42

Allard	Ensign	Murkowski
Allen	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Smith (NH)
Burns	Hatch	Smith (OR)
Campbell	Helms	Specter
Cochran	Hutchinson	Stevens
Collins	Inhofe	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McConnell	Warner

NAYS—58

Akaka	Durbin	Lincoln
Baucus	Edwards	McCain
Bayh	Enzi	Mikulski
Biden	Feingold	Miller
Bingaman	Feinstein	Murray
Boxer	Fitzgerald	Nelson (FL)
Breaux	Graham	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Hutchison	Rockefeller
Carper	Inouye	Sarbanes
Chafee	Jeffords	Schumer
Cleland	Johnson	Shelby
Clinton	Kennedy	Snowe
Conrad	Kerry	Stabenow
Corzine	Kohl	Torricelli
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden
Dodd	Levin	
Dorgan	Lieberman	

The amendment (No. 844) was rejected.

Mr. KENNEDY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

(Mr. DURBIN assumed the chair.)

Mr. KENNEDY. Mr. President, in just a few moments, I believe there will be a consent request by the minority floor leader to outline a series of amendments to consider and outline the order in which to take them up this evening, with disposition of those on the morrow.

It is not the intention, as we have gone through amendments, to second degree them. We are not prepared to say that until we have an opportunity to see those amendments. We are trying to work through the amendments at the present time. I hope perhaps we can get started on the discussion, and then in a few moments time when we have a chance to see each of the amendments, we can come back with the leadership proposal for an agreement on time and order this evening.

Mr. GREGG. Mr. President, we are ready to enter into an agreement relative to time and reserve the issue of second-degree amendments until the Democratic leader has had the opportunity to review the amendments. If we can get times locked in, that will be very helpful.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, parliamentary inquiry: Does the Senator from Virginia have an amendment pending at the desk?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 833, AS MODIFIED

Mr. WARNER. Mr. President, I send to the desk a modification to that amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 833), as modified, is as follows:

On page 154, between lines 2 and 3, insert the following:

''(11) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

''(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney's fee in accordance with subparagraph (C) to ensure that the fee is a reasonable one and may decrease the amount of the fee in accordance with subparagraph (C).

''(C) DETERMINATION OF REASONABLENESS OF FEE.—

''(i) INITIAL DETERMINATION OF LODESTAR ESTIMATE.—

''(I) IN GENERAL.—To determine whether the attorney's fee is a reasonable one, the court first shall, with respect to each attorney representing the plaintiff in the cause of action, multiply the number of hours determined under subclause (II) by the hourly rate determined under subclause (III).

''(II) NUMBER OF HOURS.—The court shall determine the number of hours reasonably expended by each such attorney.

''(III) HOURLY RATE.—The court shall determine a reasonable hourly rate for each such attorney, taking into consideration the actual fee that would be charged by each such attorney and what the court determines is the prevailing rate for other similarly situated attorneys.

''(ii) CONSIDERATION OF OTHER FACTORS.—A court may increase or decrease the product determined under clause (i) by taking into consideration any or all of the following factors:

''(I) The time and labor involved.

''(II) The novelty and difficulty of the questions involved.

''(III) The skill required to perform the legal service properly.

''(IV) The preclusion of other employment of the attorney due to the acceptance of the case.

''(V) The customary fee of the attorney.

''(VI) Whether the original fee arrangement is a fixed or contingent fee arrangement.

''(VII) The time limitations imposed by the attorney's client on the circumstances of the representation.

''(VIII) The amount of damages sought in the cause of action and the amount recovered.

''(IX) The experience, reputation, and ability of the attorney.

''(X) The undesirability of the case.

''(XI) The nature and length of the attorney's professional relationship with the client.

''(XII) The amounts recovered and attorneys' fees awarded in similar cases.

On page 170, between lines 21 and 22, insert the following:

''(9) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, subject to subparagraphs (C) and (D), the amount of an attorney's contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

''(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one. In determining whether a fee is reasonable, the court may use the reasonableness factors set forth in section 502(n)(11)(C).

''(C) EQUITABLE DISCRETION.—A court in its discretion may decrease the amount of an attorney's fee determined under this paragraph as equity and the interests of justice may require.

''(D) NO PREEMPTION OF STRICTER STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a more restrictive law with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action than the limitation on such fee under subparagraph (A).''

Mr. WARNER. I ask for the yeas and nays on the amendment, as modified.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, it will be voted on whenever the managers desire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the following Members be recognized this evening: Senator DEWINE, 15 minutes, with the time equally divided, on class actions; Senator GRASSLEY for 30 minutes, with the time equally divided, on customs fees and other matters; Senator SANTORUM for 30 minutes, with the time equally divided, on the Born Alive Infant Protection Act; Senator BROWNBACK, 1 hour equally divided on a germline genetic amendment.

Mrs. BOXER. I ask my friend to repeat the Santorum amendment.

Mr. GREGG. Born Alive Infant Protection Act.

Mrs. BOXER. The Born Alive Equal Protection——

Mr. GREGG. Born Alive Infant Protection Act.

I presume it passed the House.

Mr. KENNEDY. On that there will be an objection to a time limit.

The PRESIDING OFFICER. Objection is heard.

Mr. GREGG. Why don't we begin with the DeWine amendment for 15 minutes, followed by the Grassley amendment for 30 minutes, and we will work on the rest.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, and I do not intend to object, I appreciate what the Senator from New Hampshire is attempting to do. We have every inclination to support that proposal up to this point, but we reserve possible second-degree amendments and a tabling motion. We do not intend at this time to exercise those until we see the amendments, but we are going to operate on a good faith measure.

We are thankful for the leadership of the Senator from New Hampshire proceeding with those first two.

There are some others we might be able to get a time agreement on, as well, if the Senator wants to mention them.

Mr. GREGG. Of course, at this time we cannot proceed past the Santorum amendment until we get an agreement on that. At least I renew my request subject to the reservations of the Senator from Massachusetts, to which I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as modified, for consideration of the amendments of Senators DEWINE and GRASSLEY?

Without objection, it is so ordered.

AMENDMENT NO. 842

(Purpose: To limit class actions to a single plan)

Mr. DEWINE. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE] proposes an amendment numbered 842.

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

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

The amendment is as follows:

On page 171, between lines 14 and 15, insert the following:

SEC. 303. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

(a) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

''(o) LIMITATION ON CLASS ACTION LITIGATION.—

''(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.''.

''(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.''.

(b) RICO.—Section 1964(c) of title 18, United States Code, is amended—

(1) by inserting ''(1)'' after the subsection designation; and

(2) by adding at the end the following:

''(2)(A) No private action may be brought under this subsection, or alleging any violation of section 1962, where the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974. In this paragraph, the terms 'group health plan' and 'health insurance issuer' shall have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

''(B) Subparagraph (A) shall apply to private civil actions that are filed on or after January 1, 2002.''.

Mr. DEWINE. Mr. President, I allowed the clerk to read because I wanted my colleagues to hear the essence of the amendment. It is a very simple amendment.

My amendment in a very rational way limits class action suits that could be filed as a result of this bill. The goal of the patient protection legislation under consideration, both the McCain-Kennedy bill and the Frist-Breaux-Jeffords bill, is, of course, to protect patients. We cannot be unmindful of the cost. Obviously, we have to be concerned about the cost, and we have to worry if any parts of this bill do in fact drive up the cost because ultimately this will impact how many employers do in fact offer health insurance. It is something with which we have to be concerned.

I believe my amendment offers a very simple way to curtail some of these increased costs. The problem is that the underlying bill will increase the cost of health care because the bill currently contains no language to limit the scope of class action lawsuits. This very possibility could lead to increases in the filing of onerous, burdensome, costly class action suits.

My amendment ensures that class action lawsuits are used in a very responsible way. I think my colleagues would agree that class actions can be very effective and can be efficient and can be a valuable tool to achieve justice.

As we also know, unfortunately, these suits sometimes are subject to abuse. That is why I believe we need to limit the target of these class actions. That is what our amendment does.

The reality is that our amendment is needed. Let me explain for a moment what our amendment does and then talk about what it does not do. Our amendment permits a class action to be filed with regard to the HMO, in regard to a plan, as long as we are only dealing with one company and the employees of that specific company. It says we cannot go beyond that.

The reality is that within every company there exists unique relationships between the company, the employees, and the health care plans. Because of that, it is impossible to compare different companies that happen to offer similar health care plans. The fact is that every company negotiates every contract differently. There may be similarities. Every situation is, obviously, different.

Now, at the same time, employees within the same company, with the same health care plan, who suffer the same way as a result of being denied entitled benefits, should have the right to band together to form a class and to file suit. That is why our amendment would recognize class actions within one company against one plan.

Our language essentially says this: One employer, one health care plan, one class action suit. It is that simple.

Here is how our amendment works if adopted. Suppose Ford Motor Company offers its employees the hypothetical Aetna Health Care Plan A. General Motors has this plan. Assume, also, that Chrysler has the same plan. Now, if employees at Ford have reason to band together in a class action against Aetna because they all believe they suffered harm because of the same denial in entitled benefits, they can go ahead under our amendment and do that. Similarly, if employees at GM or Chrysler also believe they have suffered as a result of denial of the same benefits, GM and Chrysler employees can file their own class actions against Aetna. But employees at Ford, GM, and Chrysler can't join together in one suit against the health care provider.

This means class actions would be limited to employees within one company against one health care plan. Ultimately, we need this because abuse of class action lawsuits is not a road to assuring access to quality health care. If we want the bill before the Senate not to add unnecessary litigation and costs, I encourage my colleagues to adopt this amendment.

I reserve the remainder of my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MCCAIN. I repeat the request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. REID. If the Senator from Ohio wishes the yeas and nays, we would be happy to give those to him with the agreement that we will vote tomorrow.

Mr. DEWINE. I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are Senators prepared to yield back time on the amendment?

Mr. DEWINE. I believe we have an understanding to reserve several minutes tomorrow morning for summation.

Mr. EDWARDS. Mr. President, there are a couple of issues—and I have just seen this amendment—a couple of issues raised immediately.

One, the entire Patients' Bill of Rights is about treating everybody the same. This, of course, carves out a special treatment for HMOs on the issue of accountability.

Second, this amendment makes a special exception under RICO for HMOs and under rules of procedure.

Third, it has been some time since I looked at the rules, I confess, but I seem to recall under class action law, rule 23 of the Federal Rules of Civil Procedure, there is a numerosity requirement, that you have to have a sufficient number of employees involved to satisfy the class action requirement, and I am not sure under the language the Senator has drafted that would be possible because I believe, if I understand the Senator's amendment correctly, he has limited it to one employer for purposes of class actions.

Mr. DEWINE. Obviously, the amendment does not change what the rules say as far as the number of people required for a class action. The Senator

is correct; it does limit it to one company.

Mr. EDWARDS. I thank the Senator for his answer.

There is at least a serious question about that and we would need to go back and look. Under the Class Action Rules of Civil Procedure, it is my recollection there is a numerosity requirement that means a class has to be of sufficient size to be able to be certified as a class action, and I am not certain, if you limit the actions to one employer, that you don't effectively eliminate the possibility of a class action because that requirement cannot be met.

I confess to the Senator, that is from memory, and I will have to go back and look to be certain.

I have concerns about the fundamental question that the principle of this legislation is that we treat HMOs, for accountability purposes, as everyone else. And the notion of doing something specifically to protect them from class actions and to limit class actions and to limit the RICO statute is something that would violate that principle of which I would want my colleagues to be aware.

I yield the floor.

The PRESIDING OFFICER. Do the Senators yield back time?

Mr. DEWINE. I inquire, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. DEWINE. I will respond to my colleague and I appreciate his comments. He is closer to the courtroom in time than I am, and it has been many years since I have practiced law.

What this comes down to is that we are creating new opportunities for lawsuits, obviously, in this bill. What we are about is a balancing test, a balancing question. It is a matter of public policy. We have to decide. As we create new causes of action, new opportunities to file lawsuits, I think it is legitimate to look around and say: How expansive do we want to allow class actions to be under this new cause of action?

It seems to me language we have included, which is basically—basically, I say—what was in the Frist bill originally, is a rational way to do it. It doesn't ban class actions but basically says we are going to limit them. I think it is a balancing test and Members are going to have to make their own decision whether they think it is worth providing people with the opportunity to have nationwide class actions. Candidly, with the tremendous cost this is probably going to incur, that ultimately is going to be paid and ultimately going to drive up health care costs. I think Members have to make that decision.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio yields the remainder of his time. The Senator from North Carolina has 10 minutes 48 second.

Mr. EDWARDS. If I may respond briefly to the comments of my colleague, the one issue he did not address, at least in his last answer—he may have discussed it earlier—is the issue of civil RICO. I believe I am correct in saying there are some State medical societies that have pending actions against them, civil RICO actions against HMOs, where they believe, obviously, the requirements of that statute have been met and there have been improper and illegal activities by the HMOs. Particularly as we go forward, if any State medical society believes those problems continue to exist, they may want to avail themselves of the civil RICO statute, a law that exists in part for that purpose.

Again, the trouble would be we are carving out special treatment for HMOs. Having said that, I do not disagree with the fundamental principle that is part of this process; it is public policymaking. We hope to balance the interests on both sides. I think that notion makes sense. My concern is we are carving out the HMOs from this particular statute when we are not carving anyone else out from this particular statute.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Just to respond to my colleague—and I do appreciate his comments about RICO—again it is a balancing question each Member is going to have to decide.

Just to clarify things, I want to make it clear, the way this is drafted, we do not affect any pending issues, so those suits would not in any way be affected.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I yield my time?

Mr. DEWINE. I wonder if I may inquire whether or not there was a unanimous consent as far as the vote tomorrow morning at any time?

The PRESIDING OFFICER. There was no consent.

The Senator from Nevada.

Mr. REID. Senator DASCHLE has indicated we are going to come in at 9 o'clock in the morning and start voting. The first vote will be 15 minutes, and if there are other votes stacked, which I am confident there will be, there will be 10-minute votes on whatever is debated tonight. There is 10 minutes for the subsequent votes. There would be 4 minutes between each vote to debate.

Mr. DEWINE. Would that include the first vote?

Mr. REID. Yes.

Mr. DEWINE. So we would have in the morning then 4 minutes evenly divided prior to the first vote?

Mr. REID. That is right.

Mr. DEWINE. I yield the floor and thank my colleague from Nevada.

Mr. EDWARDS. We yield the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back. Under the unanimous consent agreement, the Senator from Iowa, Mr. GRASSLEY, is recognized.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. Is the Senator sending an amendment to the desk?

AMENDMENT NO. 845

Mr. GRASSLEY. I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 845.

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

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

The amendment is as follows:

(Purpose: To strike provisions relating to customs user fees and Medicare payment delay)

On page 179, strike lines 1 through 14.

Mr. GRASSLEY. Mr. President, I think three times during the debate on this bill I have been trying to make the point that bringing this bill to the floor usurped the consideration of the Senate Finance Committee of two provisions that are in the bill and another provision that ought to be in the bill that is not in the bill. My amendment today deals with striking sections 502 and 503. It is another way of my saying, as I tried to in an amendment 2 days ago on this legislation, to the Finance Committee, that people writing this legislation ought to keep their hands off subject matter that comes within the jurisdiction of the Senate Finance Committee. If people are writing a piece of legislation that comes out of Health, Education, Labor, they ought to find sources of revenue out of programs within their own jurisdiction to fund bills that they think up, rather than robbing another committee. That is basically what has happened.

I am opposed to both provisions on jurisdictional grounds because they are within the control of the Finance Committee, not the Health, Education, Labor, and Pensions Committee. But I also want to make it very clear it is not just jurisdictional, I also have concerns about what it does to policy, dealing with customs on the one hand and Medicare on the other hand. I want to review each of these in turn.

Section 502 of the bill extends the customs user fees from the year 2003 to 2011. This generates $7 billion over 8 years of the total revenue that it takes to fund this piece of legislation.

When Congress authorized these customs user fees, the avowed purpose was

to underwrite the costs of customs commercial operations. But today in this bill, the fees are not being used for customs. They are being used to offset the cost of the Patients' Bill of Rights to the tune of $7 billion. I think this is unacceptable and violates the comity that one committee ought to have towards the other.

It also is unacceptable because when you have constituents who pay customs user fees for the purpose of having an efficient and effective operation of the Customs Service, so you can enter this country in an expeditious way, for those fees not to be used for what they were intended—for expedited entry to the country, to police illegal entry to the country, to police illegal drugs coming into the country, generally to make the customs agency's personnel more efficient and better able to do their job so the United States can be a sovereign nation protecting its borders the way it should—if these fees are extended, and I want to emphasize the word ''if,'' they should be extended in a thoughtful way, not as some budget trick to make the costs of this bill fit within the confines of the Federal budget.

I am not the only one who thinks so. I have received numerous letters from companies, from associations that are very concerned about this—Liz Claiborne, Inc., the National Association of Foreign Trade Zones, the Joint Industry Group, the National Retail Federation, the American Electronics Association, and also a memo from the U.S. Customs Service. They are all raising concerns because these are folks who pay this customs user fee, a fee that is meant to pay for bringing things into the country. They believe since the Customs Service is so outdated, so slow moving, not working in an expeditious way, this revenue ought to be used for the improvements in the customs operation that were anticipated when these fees were put in place. I ask unanimous consent these letters and memos be printed in the RECORD.

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

LIZ CLAIBORNE INC.,
North Bergen, NJ, June 20, 2001.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY. We write in opposition to a provision in the Patients' Bill of Rights (S. 1052) that would extend the merchandise processing fee, or ''mpf,'' for eight additional years. This is a trade-related measure, a user fee levied against importers like ourselves, that has no place in this legislation. We ask you to support efforts to delete the provision entirely.

First by way of background, the merchandise processing fee is an ad valorem fee levied against each import transaction, or ''entry.'' When it was passed 15 years ago, it was done so with the avowed purpose of underwriting the costs of commercial operations at the US Customs Service. In fact, however, it has never been used for that purpose. Instead, proceeds have been diverted to the general fund and act as a revenue source to balance the costs of other governmental programs. As of FY2001, the trade community has indulged in nearly $7.2 billion for merchandise processing, an amount far exceeding Customs' commercial operations budget.

In truth, the fee is really a tax on US imports and, from the beginning, we have objected strongly. It has been illegal under GATT and then World Trade Organization (WTO) rules, although the federal government has indulged in the fiction that it is a ''user fee.'' Now, under the terms of S. 1052, all pretense has been dropped and it is being offered as an offset to the costs of the Patients' Bill of Rights.

The fee is indeed due for renewal by 2003 and it is the trade communities' intention to seek its termination. While, before, the nation was experiencing a serious deficit, the reasons for its passage have since disappeared. Now, it is simply a tax on American citizens who buy imported products, whose price is inflated by the mpf. It is unconscionable to continue to tax Americans in this manner and we intend to seek repeal in the appropriate committee jurisdiction.

In the meantime, however, we ask that you assist us in removing the mpf funding from the Patients' Bill of Rights. The merchandise processing fee has no place in this debate. The fee will not be viewed on the merits in these proceedings, but is instead being used—cynically—as a ''pay-for'' a totally unrelated program.

Sincerely,

FRANK KELLY,
Vice President, International Trade Compliance and Government Affairs.

NATIONAL ASSOCIATION OF FOREIGN-TRADE ZONES,
Washington, DC, June 15, 2001.

Hon. CHARLES GRASSLEY,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY. The National Association of Foreign-Trade Zones (NAFTZ) has learned that S. 872, Sec. 602 the ''Bipartisan Patient Protection Act'' provides for the extension of the Merchandise Processing Fee (MPF) through 2011. Congress established the fee to offset the cost of the commercial operations of the U.S. Customs Service. Not only does the proposed legislation continue the practice of allocating the MPF to the general fund of the U.S. Treasury with no relationship to the purpose of the fee, it completely eliminates the relationship of the fee to the Customs Service. We have serious reservations as to whether this is permissible through the General Agreement on Tariffs and Trade, and the World Trade Organization.

The NAFTZ is not opposed to the imposition of a fee for services rendered. We do believe, however, that any such fee must correlate to a discernible cost associated with the service provided. We are concerned that at a time when Congress is struggling to find the necessary funding to cover the cost of the modernization of the Service, that funds already designated by Congress for that purpose are being diverted.

Since the purpose of the MPF, as established by Congress, is to fund the commercial operations of the U.S. Customs Service, we are strongly opposed to any extension of the MPF without designating the revenue to that intended purpose and we respectfully request that you drop the merchandise processing fee extension from S. 872.

Thank you for your attention and consideration of our views. If you have any questions, please feel free to contact me.

Sincerely,

RANDY P. CAMPBELL,
Executive Director.

JOINT INDUSTRY GROUP,
June 20, 2001, Washington, DC.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN. The Joint Industry Group (JIG) expresses its opposition to a provision in the Bipartisan Patient Protection Act (S. 1052) that would automatically extend the U.S. Customs user fee from 2003 to 2011 (Sec. 502). This 8-year extension would remove any near-term opportunity to debate whether the fee should be continued or whether an extension could be earmarked specifically for modernizing U.S. Customs operations.

JIG is a coalition of more than 160 companies, trade associations, professionals and businesses actively involved in international trade. We both examine and reflect the concerns of the business community relative to current and proposed international trade-related policies, actions, legislation, and regulations. We undertake to improve policies and procedures through dialogue with government agencies and the Congress. The Joint Industry Group represents over $350 billion in trade.

JIG members account for millions of dollars paid yearly in merchandise processing fees (MPF). Every year, Customs collects over $1 billion from companies importing goods into the United States. Additionally, companies are burdened by administrative costs associated with the fee, since Customs imposes complex reporting and accounting requirements on companies in the course of collecting fee payments. All this is occurring at a time when tariffs on products are declining and approaching zero.

If the Customs Service is to continue collecting this user fee it MUST directly fund improvements to Customs processing, specifically the Automated Commercial Environment (ACE) and other U.S. Customs initiatives that are greatly needed to improve the trade process. Improving Customs' ability to handle trade will become more critical as the amount of commerce entering the United States is expected to continue its double-digit rate of growth. While Section 502 of S. 1052 does not earmark user fees for health care purposes, it does use the fee as de facto justification for the revenue neutrality of the bill. JIG is greatly concerned that this approach will prevent user fees from being applied to the commercial operations of the U.S. Customs Service for which they are intended.

Use of the fee to offset the revenue impact of S. 1052 could also increase potential for a WTO dispute. In the late 1980's, a GATT panel found that the user fee was GATT-illegal because it was being collected in amounts exceeding the cost of Customs processing. While the U.S. addressed that problem by placing certain caps on the fee, it was clear from the panel finding that linkage of the fee to the cost of Customs commercial operations is of seminal importance to the question of GATT legality. If our trading partners believe Customs user fees are being used to fund health-care related goals, another GATT challenge is virtually certain to surface in the WTO.

For the reasons cited above, JIG would have no choice but to support such a challenge. It is clear that the proposed action in

S. 1052 violates the WTO provisions to which the United States is a signatory.

We therefore urge that the user fee extender be removed from S. 1052. We need the opportunity to debate the merits of this fee when it comes up for renewal in 2003. If you have any questions about our views on this issue or wish to discuss the matter further, please contact Alan Atkinson at (202) 466–5490. Thank you for your consideration.

Sincerely,

RONALD SCHOOF,
Chairman, Joint Industry Group.

NATIONAL RETAIL FEDERATION,
LIBERTY PLACE,
Washington, DC, June 25, 2001.

Hon. CHUCK GRASSLEY,
Ranking Member, U.S. Senate Committee on Finance, Dirksen Bldg., Washington, DC.

DEAR SENATOR GRASSLEY. The National Retail Federation (NRF) was surprised to learn that section 502 of the Bipartisan Patient Protection Act (S. 1052) contains an eight-year extension of the Customs Merchandise Processing Fee (MPF). The MPF is an administrative fee leveled on imports into the United States, through which U.S. retailers and other importers pay hundreds of millions of dollars every year.

NRF and the U.S. retail industry object most strongly to inclusion of this provision and, for the following reasons, we urge that the provision is stricken from the bill.

The Senate Finance Committee, which has jurisdiction over the MPF and other customs issues, was not consulted about this provision in S. 1052 and, has had no opportunity to consider the merits of extending the fee as currently structured.

The MPF was created to offset the administrative costs of the U.S. Customs Services' commercial operations, and any attempt to use it for other purposes, as this bill would do, is against the rules of the World Trade Organization.

The Finance and Ways and Means Committees have been working for some time with Customs and the importing community on renewing the MPF in a way that would ensure it be used for its proper and intended function—for commercial operations, including customs modernization funding.

It is unacceptable that extension of the MPF has been slipped into a health bill without the approval of the Committee of jurisdiction or the knowledge of those in the private sector that will be most directly affected as a result. At the same time, we are struggling to provide Customs Service with sufficient funds for a new computer system to allow Customs to modernize its operations and protect our nation's borders. If this provision in S. 1052 is allowed to stay, it will be impossible for the Senate Finance Committee to restructure the MPF program in the way it was intended—to finance the costs of Customs' operations. Accordingly, we ask for your help in insisting on the removal of this provision when S. 1052 comes to the full Senate for consideration.

The National Retail Federation (NRF) is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet and independent stores. NRF members represent an industry that encompasses more than 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 2000 sales of $3.1 trillion. NRF's international members operate stores in more than 50 nations. In its role as the retail industry's umbrella group, NRF also represents 32 national and 50 state associations in the U.S. as well as 36 international associations representing retailers abroad.

Sincerely,

STEVE PFISTER,
Senior Vice President, Government Relations.

AEA,
Washington, DC, June 25, 2001.

Hon. CHUCK GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY. AeA, the nation's largest high-tech trade association, is opposed to the provision (section 502) in the Bipartisan Patient Protection Act (S. 1052) that would extend the application of the U.S. Customs user fee from September 30, 2003, to September 30, 2011.

The U.S. importing community currently has full expectation that this import tax will expire as scheduled in 2003. As the leading U.S. importing sector, the U.S. high-tech sector would be particularly impacted by such a tax increase. Our member companies already pay tens of millions of dollars annually in customs user fees. In addition, there are additional administrative costs associated with the fee, since customs authorities impose complex reporting and accounting requirements on importers in the course of collecting the user fee payments. An unexpected, eight-year extension of the user fee, with its associated administrative costs, would be an unwelcome and unnecessary additional cost burden on our industry.

While section 502 of S. 1052 does not earmark user fees for health care purposes, it does use the fee as de facto justification for the revenue neutrality of the bill. We believe this provision introduces the potential that the U.S. Customs user fee will again be found contrary to U.S. international obligations under the WTO. In the late 1980's, a GATT panel found that the user fee was GATT-illegal because it was being collected in amounts exceeding the cost of customs services rendered. While the United States addressed that problem by placing certain caps on the fee, it was clear from the panel finding that linkage of the fee to the cost of customs commercial operations is of seminal importance to the question of GATT legality. If our trading partners believe customs user fees are being used to achieve health-care related goals, another GATT challenge could well surface in the WTO.

For the reasons stated, AeA urges you to remove the customs user fee extender from S. 1052. This Patient Protection Act is an inappropriate forum for any consideration of extending the custom user fee. If you have any questions about our views on this issue or wish to discuss the matter further, please contact me at 202–682–4423.

Sincerely,

TIM BENNETT,
AeA Senior Vice President International.

[From the Executive Office of the President, Office of Management and Budget, June 21, 2001]

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

S. 1052—Bipartisan Patient Protection Act. (Sens. MCCAIN (R) AZ, KENNEDY (D) MA, EDWARDS (D) NC) The President strongly supports passage of a patients' bill of rights this year and has been working with members of both parties since the first week of the Administration to forge a compromise. Congress has been divided on this issue for far too long at the expense of patients and their families. The President strongly urges Congress to pass a strong patients' bill of rights this year that provides meaningful protections for patients, not a windfall for trial lawyers or a threat to Americans' ability to obtain and afford quality health care. On February 7, 2001, the President transmitted to Congress his principles for a bipartisan patients' bill of rights and urged Congress to move quickly on this important issue.

The President's principles called for passage of a patients' bill of rights that ensures all Americans enjoy strong patient protections, including: access to emergency room and specialty care; direct access to obstetricians, gynecologists, and pediatricians; access to needed prescription drugs and approved clinical trials; access to health plan information; a prohibition of ''gag clauses''; consumer choice provisions; and continuity of care protections. The President also recognizes, however, that many States have passed strong patient protection laws already, some of which have been in force for over a decade. To the extent possible, a Federal patients' bill of rights should give deference to these effective State laws.

The President's principles emphasized the importance of providing patients who have been denied medical care with the right to a fair, prompt, and independent medical review, which will ensure that disputes are resolved quickly and inexpensively and that patients receive the quality care they deserve.

The President stated that only after this independent review decision is rendered should we resort to the costlier, time-consuming remedy of litigation in Federal courts to ensure that health plans are held liable for wrongful decisions.

The President's principles also reminded Congress of the necessity of avoiding unnecessary and frivolous lawsuits, which will only serve to drive up costs and leave more individuals without insurance coverage. S. 1052 will significantly increase health insurance premiums and the number of uninsured. According to the Congressional Budget Office, health insurance premiums under S. 1052 as originally drafted would increase by over 4 percent. If the effects of litigation risk on the practice of medicine and of the reduced ability of health plans to negotiate lower rates were included, CBO's estimated cost impact could be much higher, by 4–5 percent or more. This is in addition to the estimated 10–12 percent premium increases employers are already facing in 2001. Further, leading economists have predicted that employers drop coverage for appropriately 500,000 individuals when health care premiums increase by 1 percent. According to these estimates, S. 1052 could cause at least 4–6 million Americans to lose health coverage provided by their employers.

The President is encouraged by efforts in the Senate, like those of Senators FRIST, BREAUX, and JEFFORDS, to develop a common sense compromise that forges a middle ground on this issue and meets the President's principles.

While the President strongly supports a comprehensive and enforceable patients' bill of rights and has been working with members of both parties to enact legislation this year, he believes that S. 1052 would encourage costly and unnecessary litigation that would seriously jeopardize the ability of many Americans to afford health care coverage.

The President objects to the liability provisions of S. 1052. The President will veto the

bill unless significant changes are made to address his major concerns. In particular, the serious flaws in S. 1052 include:

—S. 1052 circumvents the independent medical review process in favor of litigation. The President believes that patients should be given care first—litigation should be the last resort. Patients should exhaust the medical review process first, allowing doctors, not trial lawyers, to make decisions about medical care.

—S. 1052 jeopardizes health care coverage for workers and their families by failing to avoid costly litigation. S. 1052 overturns more than 25 years of Federal law that provides uniformity and certainty for employers who voluntarily offer health care benefits for millions of Americans across the country. The liability provisions of S. 1052 would, for the first time, expose employers and unions to at least 50 different, inconsistent State-law standards. The result will inevitably be that employers and unions will be forced to pay for different benefits from State to State, even within a particular State, based on varying precedents set in State courts and leading to inconsistent standards of care for patients. Further, S. 1052 imposes no limitations on State court damages, and it is not clear whether existing State-law caps would apply to the broad, new causes of action in State courts that S. 1052 creates.

S. 1052 also would allow causes of action in Federal court for a violation of any duty under the plan, creating open-ended and unpredictable lawsuits against employers for administrative errors. These new federal claims do not have any limitations on the amount of noneconomic damages, creating virtually unrestrained damage awards that are limited only by an excessive $5 million cap on punitive damages.

Moreover, S. 1052 would subject employers and unions to frequent litigation in State and Federal court under a vague ''direct participation'' standard, which would require employers and unions to defend themselves in court in virtually every case against allegations that they ''directly participated'' in a denial of benefits decision. Because such determinations are inherently fact-specific, any such allegation will force a costly and time-consuming court process and result in varying State interpretations of ''direct participation,'' forcing employers to adhere to different standards in every State.

—S. 1052 fails to provide a fair and comprehensive remedy to all patients. The President believes the new Federal law should establish a comprehensive set of rights and remedies for patients. S. 1052 instead encourages costly litigation by providing no effective limitations on frivolous class action suits and allows trial lawyers to go on fishing expeditions to seek remedies under other Federal statutes.

—S. 1052 subjects physicians and all health care professionals to greater liability risk. S. 1052 would expand liability for physicians and all health care professionals in State courts well beyond traditional medical malpractice by permitting new, undefined causes of action in State courts for denials of medical benefits. This expanded litigation against physicians and all health professionals will create an opportunity to circumvent State medical malpractice caps that may not apply to these new causes of action.

—Extraneous User Fee Provision. The Administration objects to inclusion in S. 1052 to an extraneous revenue-raising provision (section 502), which extends for multiple years Customs charges on transportation, passengers, and merchandise arriving in the country.

PAY-AS-YOU-GO SCORING

S. 1052 would affect direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's preliminary scoring estimate of the bill is under development.

U.S. CUSTOMS SERVICE,
Washington, DC, June 20, 2001.

Memorandum for James F. Sloan, Acting Under Secretary (Enforcement).

From: Acting Commissioner

Subject: Pay-go Offset for the Patient Bill of Rights

Congress will soon consider passage of the Patient Bill of Rights. The Customs Service offers no opinion of the legislation. However, we have concerns with the bill's potential impact on future Customs appropriations. Section 502 of the bill would extend our collection of COBRA fees from 2003 to 2011, but would use the revenue to offset the cost of implementing this new legislation. Although we support extending the collection of COBRA fees, any scoring of the COBRA extension which would limit, in any way, the ability to fund or offset Customs activities would likely cause a critical funding shortfall for the Customs Service.

Section 502 of the bill states: Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''2003 and inserting 2011, except that the fees may not be charged under paragraphs (9) and (10) of such subsection after March 31, 2006''.

The COBRA fees collected by Customs are used both to reimburse Customs appropriation for certain costs, such as overtime compensation, and to offset a portion of the Customs Service Salaries and Expenses Appropriation (S&E). As an example, our FY 2001 collections will offset approximately $1 billion or almost 50 percent of Customs appropriation this year. Authorizing a COBRA extension to offset costs for something other than the Customs Service could negatively impact our available funding. Additionally, the Merchandise Processing Fee authorized in the COBRA is a fee that is paid by importers for the processing of merchandise by the Customs Service. Directing the funds collected from this fee for something other than Customs operations could pose GATT interpretation issues.

While Customs supports the extension of the COBRA fees, we also acknowledge that changes are warranted with the manner in which we collect those fees. We intend to review this issue in the near term.

Mr. GRASSLEY. I want to speak specifically to what one company wrote:

The merchandise processing fee has no place in this debate. The fee will not be viewed on the merits in this proceeding, but is instead being used—cynically—as a ''pay-for'' for a totally unrelated program.

Obviously, the totally unrelated program is the Patients' Bill of Rights that is before us.

Our experience today—in other words, how we handle this issue of customs user fees today—will only hurt us in our deliberation of what ought to be done to expedite and make more efficient entry into our country. It is going to hurt us when that policy debate comes up sometime down the road—weeks, months, but sometime. Customs modernization is a very important priority.

My point is that there are important Customs modernization issues that should no longer be ignored. Let's not have a rush to pay for this Patients' Bill of Rights today and blind us towards the real public policy questions we have on the Customs Service and their problems tomorrow.

Are you concerned about drugs at our borders? Are you concerned about illegal transshipment of textiles, import restrictions on steel and lumber, and backup of trucks at our borders? If you vote for extending fees, there will be no committee consideration if Customs is using the fees for these or other Congressional priorities.

I would like to tell you that extending these fees will definitely have an impact on what we are able to do or not to do about modernization of the Customs agency and its operations around the borders of our country, even in the interior of the country where we have Customs operations.

I would like to read what the acting Customs Commissioner had to say about this. He wrote on June 20, this year:

Any scoring which would limit in any way the ability to fund or offset Customs activities would likely cause—

And it is highlighted—

a critical funding shortfall for the Customs Service.

Experience a critical funding shortfall when you want to get in and out of Chicago with some Customs operations and people are complaining because it takes so long to get it done because of a shortage of personnel and not having the technical equipment that ought to be there to help efficient operation. Then you know that maybe you made the wrong decision when you took $7 billion out of Customs to do this.

Also, I have a statement, which was submitted for the RECORD, from the President himself, dated June 2001, clearly opposing section 502 of the bill.

I would like to raise one other issue, and that is it is not at all clear that using Customs user fees to offset revenue is consistent with the World Trade Organization rules.

Think about that. We are making a decision to take $7 billion out of Customs user fees under the jurisdiction of the Senate Finance Committee, and we may be doing this in a way that does not meet our obligation under the World Trade Organization. Under that organization, Customs fees are to be used as payments for Customs services, not as a source of general revenue to the Federal Government.

In a sense, as we would say to our constituents back home, you pay a gas tax, and we use the gas tax for transportation, to build highways. When people pay Customs fees, they pay those Customs fees for facilitating entry of product into the country and

the policing of that entry of product into the country. A fee levied for a certain purpose ought to be used for that purpose or it might violate the WTO because it should not be a source of general revenue any more than taking money from the gas tax and putting it into the general fund of the United States.

Here is what the Customs Service writes on this issue.

The merchandise processing fee is a fee that is paid by importers for the processing of merchandise by the Customs Service. Directing the funds collected from the fee for something other than Customs' operations could pose GATT interpretation issues.

While it is not clear that a WTO case would arise or that a challenge would be successful, it seems to me that this is a warning bell that should certainly be heard.

No Senator should vote against this motion to strike unless they are prepared to face the possibility of a WTO challenge and take responsibility accordingly.

We should strike this provision from the bill. Before blindly supporting section 502, we should have time to consider its broader implications.

I urge my colleagues to support this amendment to strike.

Turning to the other provision of their bill that my amendment strikes, section 503, that would delay payments to Medicare contractors by one day thereby shifting $235 million in Medicare part B spending from fiscal year 2002 to fiscal year 2003 is simply a budget gimmick.

I am troubled by this provision because it comes within the jurisdiction of the Senate Finance Committee and also because we are trying to work to make Medicare a better program, not do things to harm it.

First, I point out to my colleagues that, again, the Finance Committee has jurisdiction, not the Committee on Health, Education, Labor and Pensions. It is the Finance Committee that authorizes and overseas the Medicare Program and the Federal agency that runs it, now known as the Center for Medicare Services.

It is the Finance Committee and not the Health, Education, Labor, and Pensions Committee that is in the best position to know how changes in the Medicare Program, such as this one-day payment delay in section 503 of this bill that will affect our senior citizens, will affect our health care providers and will affect the integrity of the Medicare trust fund.

With all due respect, when it comes to Medicare and Medicaid and other Federal entitlement programs, it seems terribly ridiculous to ignore the committee that has the very expertise in these programs, meaning the Senate Finance Committee.

The second reason that I am proposing to strike the Medicare payment delay in section 503 of the bill is that the delay itself, which may not seem serious to some, could actually have consequences for Medicare contractors and providers.

Delaying payments by one day and moving them into the next fiscal year just to finance this bill is fuzzy math, to say the least. But it unfairly subjects the already fragile Medicare Program and its health care contractors to accounting disruptions and to administrative uncertainties.

Medicare providers already have it hard enough just dealing with the Medicare Program in the first place. They are overwhelmed by paperwork, confused by conflicting regulations, and frequently left hearing that ''the check is in the mail.''

Can you imagine the Federal Government saying ''the check is in the mail'' when it comes to timely payments of their reimbursements?

Subjecting those providers to any additional delay, even if just for a short period of time, is simply unfair. We need to make it easier for providers to do business with Medicare.

Think about it. No one wants to do business with late payers, and health care providers are no exception.

Think about it for a minute. No one wants to do business with late payers, and health care providers are no exception. We should not be giving Medicare an additional opportunity to delay for one minute—let alone a longer period of time—their obligations to promptly pay providers.

For the last 3 months, Senator BAUCUS and I have been working hard to develop a Medicare reform proposal that strengthens and improves the program by adding prescription drug coverage and making the entire benefit package more modern.

Part of this bipartisan effort also includes an initiative to make Medicare more responsive and accountable to both seniors and providers. We want to send a message to providers that they will be treated fairly and professionally by Medicare.

Unfortunately, the delay provision in section 503 does exactly the opposite. It sends an entirely wrong message and undercuts our bipartisan effort to make Medicare a better business partner for today's providers.

For these reasons, I cannot support the inclusion of section 503 in this bill. Neither 502 nor 503 belong in this bill. They are both outside the jurisdiction of the Health, Education, Labor Committee and a long way away from the subject of this debate, which is patients' rights. Both sections should be stricken from this bill entirely.

Consequently, I urge my colleagues to support my amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time in opposition?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take just a few moments of the Senate's time.

The fact is, this provision, as stated on page 179, does not even go into effect until the year 2003. There is plenty of time for the Finance Committee to work it out if this isn't a satisfactory way of dealing with this issue. It is basically a bookkeeping issue. There is a judgment that is made by CBO that the value of a wage package is ''X,'' and if you are going to guarantee additional kinds of benefits in terms of health care, then the wages are going to go down, which is going to mean less money in terms of Social Security.

This is actually a balance from the Budget Committee's point of view to make sure that the bookkeeping will be balanced.

Tomorrow, we will hear from the chairman of the Budget Committee who will describe this and, at the appropriate time, make the point of order.

I point out, though, it is my understanding that this has no impact or effect on the Customs Service. They will still receive the money. If they want to go through with their modernization, they will still be able to do that. But it basically ensures that this is going to conform to the budget consideration. That is the reason that this was put in there. There will be sufficient time for the Finance Committee to make any other kinds of adjustments and changes.

To make it very clear, the resources that are collected in this are not to pay for the bill. It is basically a bookkeeping offset to what will be anticipated to be the shortfall in terms of the payments under the CBO estimate of the wage package because of the enhanced value, which I think ought to be encouraging for workers of their health benefits. So we will hear more from the Budget Committee tomorrow. At that time, the chairman of the Budget Committee will make a further comment, speaking for the Budget Committee. They are in support of our position.

Mr. GREGG. Is the Senator yielding back his time?

Mr. KENNEDY. I am glad to yield back the time.

The PRESIDING OFFICER. The Senator from Massachusetts yields back the remaining time on the Grassley amendment.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I ask unanimous consent that this amendment and all amendments that have the yeas and nays ordered tonight be stacked for a vote tomorrow morning, with the appropriate time of 2 minutes to each

side, or whatever is agreed to, before each amendment is voted on.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, at this time I would like to outline the remainder of the evening, if acceptable to the parties, relative to our side, which would be that Senator SANTORUM would go next with his amendment. He would have 10 minutes; the Senator from California, Mrs. BOXER, would have 10 minutes. Then we would go to Senator NICKLES. He would have 10 minutes; and 10 minutes to whoever is in opposition. Senator BROWNBACK would come next. He would have an hour divided, as is traditional. And Senator ENSIGN would then follow with two amendments, the physician pro bono amendment and the genetic discrimination testing amendment.

I believe the Democratic membership has all these amendments. I would hope we could also agree there would be no second degrees.

Mr. KENNEDY. The Ensign amendment we have just received. I have no objection to the earlier request. I am sure we will agree with this, but we would like for that, as far as it being locked in in terms of no second-degree amendments, just to have an opportunity to——

Mr. GREGG. I would reserve my request on the second degrees relative to the Ensign amendments but ask unanimous consent that the unanimous consent agreement include that there be no second degrees on DeWine, Grassley, Nickles, Santorum, or Brownback.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Pennsylvania is recognized.

AMENDMENT NO. 814

Mr. SANTORUM. Mr. President, I have amendment No. 814 at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself, Mr. SMITH of New Hampshire, and Mr. DEWINE, proposes an amendment numbered 814.

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

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

The amendment is as follows:

(Purpose: To protect infants who are born alive)

On page 179, after line 14, add the following:

SEC. ___. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant

''(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant member of the species homo sapiens who is born alive at any stage of development.

''(b) As used in this section, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

''(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

''8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.''.

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from Pennsylvania is recognized for 10 minutes.

Mr. SANTORUM. Mr. President, this is an amendment that I think really goes to the heart of this bill: Patient protection. This bill is purported to deal with trying to take care of patients. What this amendment does is make sure that every living human being is protected by this act as well as all other acts of Congress.

This is a very simple amendment that says—I am quoting from the amendment—

In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words ''person'', ''human being'', ''child'', and ''individual'', shall include every infant member of the species homo sapiens who is born alive at any stage of development.

That is a rather simple amendment. Obviously, I think it is an amendment that should be broadly accepted.

The reason I offer this amendment is really twofold. No. 1 is the concern about how certain little children—little infants—are treated, particularly those who are born alive after an abortion, an abortion that was not successful in the sense that the child was not killed before the child was delivered outside of the mother's womb.

So what we want to do is make sure those children in particular, as well as others, are treated with the same dignity and are covered by the same laws as all other people in America.

There are, unfortunately, many disturbing examples of how these little children are not treated the same and not given the proper care and, frankly, the proper respect that is required under the laws that we have passed in this Congress.

I am going to use a couple of examples that were given by nurses in congressional testimony.

Last year, we had testimony from Allison Baker, who is a registered nurse, who witnessed three induced abortion survivor incidents. For one of them, she says:

I happened to walk into a ''soiled utility room'' and saw, lying on the metal counter, a fetus, naked, exposed and breathing, moving its arms and legs. The fetus was visibly alive, and was gasping for breath. I left to find the nurse who was caring for the patient and this fetus. When I asked her about the fetus, she said that she was so busy with the mother that she didn't have time to wrap and place the [baby] in the warmer, and she asked if I would do that for her. Later I found out that the fetus was 22 weeks old, and had undergone a therapeutic abortion because it had been diagnosed with Down's Syndrome. I did wrap the fetus and place him in a warmer and for 2½ hours he maintained a heartbeat, and then finally expired.

The second incident involved a 20-week-old fetus with spina bifida who lived for an hour and 40 minutes until she died.

She continued:

The third case occurred when a nurse with whom I was working was taking care of a mother waiting to deliver her 16 week Down's Syndrome fetus. Again, I walked into the soiled utility room and the fetus was fully exposed, lying on the baby scale. I went to find the nurse who was caring for this mother and fetus, and she asked if I could help her by measuring and weighing the fetus for the charting and death certificate. When I went back into the soiled utility room, the fetus was moving its arms and legs. I then listened for a heartbeat, and found that the fetus still was alive. I wrapped the fetus and in 45 minutes the fetus finally expired.

We have other stories, disturbing stories of cases where children were born alive and basically discarded as trash in soiled utility closets or laying on tables fully exposed at a very tender age.

This is a story from Jill Stanek, another registered nurse:

One night, a nursing co-worker was taking an aborted Down's Syndrome baby who was born alive to our Soiled Utility Room because his parents did not want to hold him, and she did not have time to hold him. I couldn't bear the thought of this suffering child lying alone in a Soiled Utility Room, so I cradled and rocked him for the 45 minutes that he lived. He was 21 to 22 weeks old, weighed about ½ pound, and was about 10 inches long. He was too weak to move and very much expending any energy he had to breathe.

This is the current problem, and this is the reason we are introducing this legislation. Frankly, I have concerns that this may be even more of a problem in the future based on court decisions. The court decision I refer to is

the recent decision by the U.S. Supreme Court in the Nebraska partial-birth case. In that case, in a concurring opinion, two Justices said two things: One, Justice Stevens with Justice Ginsburg concurring, and the other, Justice Ginsburg with Justice Stevens concurring. I am going to quote two things that should send a chill down the spines of people here when it comes to what the future could have in store for us if we do not pass legislation such as this.

This is what Justice Stevens said in this decision:

> The holding [of Roe]—that the word ''liberty'' in the 14th Amendment includes a woman's right to make this difficult and extremely personal decision—makes it impossible for me to understand how a State has any legitimate interest in requiring a doctor to follow any procedure other than the one he or she reasonably believes will best protect the woman in her exercise of this constitutional liberty.
>
> For the notion that either of these two equally gruesome [abortion] procedures performed at this late stage of gestation is more akin to infanticide than the other, or that the State furthers any legitimate interest by banning one or not the other, is simply irrational.

What that says very clearly is, according to these two Justices, that any procedure that the doctor determines is in the best ''health interest of the mother'' can be used without question. So if the doctor believes the best way to safely perform this abortion is to deliver a live baby and then subsequently kill it because it is the safest way for the mother's health to have that done, under this rationale, under this reasoning, that would be legitimate. I think we have to make it very clear that that is not legitimate; that after delivering a baby, once the baby is outside the mother, it is no longer legitimate to consider that child just a piece of property to be disposed of, or massive cells to be disposed of when it is a living, breathing individual.

Justice Ginsburg's opinion says the following:

> Such an obstacle [to abortion] exists if the State stops a woman from choosing the procedure her doctor ''reasonably believes will protect the woman in [the] exercise of [her] constitutional liberty.''

Again, it is an open door to whatever procedure the doctor wants to use, irrespective of the baby, which again leaves the door open certainly for the doctor to say that he or she reasonably believes that the mother's health will be served if the baby is delivered and then killed because that is the safest way. This was not the majority opinion, thankfully, of the Court, but it does show that there is a possibility, at least, out there for this kind of ruling within our court systems at the highest level, much less what some district or appellate court might do.

I think it is important for us to clearly draw the line, if that is called drawing the line, that once a child is born, it is no longer a health threat to the mother, and that we have a legitimate interest in protecting this child from being killed at that point or, shall we say, treat that child within the context of the law as we would treat any other child or any other person in America.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from California.

Mrs. BOXER. Mr. President, my colleague, in his discussion of this amendment, does attack the landmark case of Roe v. Wade which simply said, in the 1970s—and women have had the right since then—that in the early stages of a pregnancy, the government should play no role in the very personal, private, moral decision that a woman and her family and her doctor and her God would make without the interference of government. But his amendment certainly does not attack Roe in any way.

His amendment makes it very clear that nothing in this amendment gives any rights that are not yet afforded to a fetus. Therefore, I, as being a pro-choice Senator on this side, representing my colleagues here, have no problem whatsoever with this amendment. I feel good about that. I feel good that we can, in fact, vote for this together. It is very rare that we can.

Simply put, this amendment says it all in its purpose: ''To protect infants who are born alive.'' Of course, of course. My colleague goes on to say that simple statement, which is very important, is in fact, he said, the heart of this bill. I think the heart of this bill is even more than that. The heart of this bill is, yes, protecting infants; it is also protecting children, protecting teenagers, protecting people as they get older, until they are very old and very frail and are fighting for their life.

So this bill really should protect us all at every stage of our life, from the earliest days until the final days. I hope that my colleague will join with us in supporting this Patients' Bill of Rights because it does, in fact, protect all of us. And it will, in fact, give all of us at any stage, at any age, the quality health care that we need.

I can tell my friend, and I think I have mentioned it to him before and on the floor before, that I gave birth to two premature babies, one quite premature. And I can say right here and now that I will never, ever forget the experience of those doctors. This was a long time ago, I say to my friend; this was way back. Now my kids are taking care of me. And the doctor came in and grabbed my firstborn son and, before they could even take a cloth to clean him, ran him into the incubator where he had to stay for 1 month. Had I not had that kind of dedication from a pediatrician, that kind of concern, a hospital that knew at that time we didn't have the money to pay the $1,000 a day that it costs—now it is way more than that—I don't know if today I would have a beautiful healthy son who is married and the pride of our lives.

My daughter was also born premature, a similar circumstance, same thing—dedicated people, dedicated hospital, quality care.

I join in voting for this amendment, with the understanding that all of us at every stage of our life deserve that kind of quality care. In other words, if my friend were to expand it and say every human being deserves quality health care, deserves, when they are in the hospital, to be protected, I would join with him as well. That is what I think the larger bill does do.

He believes it is necessary to single out infants. Fine. That is fine.

Again, I say to my friend in the chair that we will be voting for this amendment, I hope unanimously. If we have to have a recorded vote, that is fine. And we will state that we feel very strongly that every person deserves protection from this health care system and that this Patients' Bill of Rights should give us all the care that we deserve and all the care our families deserve, regardless of whether we are a helpless newborn baby or whether we are an elderly person who is fighting and struggling against illness.

If 100 people vote for this amendment, which I think will be the case, then 100 people should vote for the Patients' Bill of Rights because it will afford the families of those vulnerable infants and all of us the protections that we need against HMOs that oftentimes put dollar signs ahead of our vital signs. That is wrong to do. Some of these babies are born into families who don't have a lot of money, who don't have a lot of power, who are going against HMOs where the CEO makes hundreds of millions of dollars. But they say: Gee, we are not going to give that little baby the care he needs.

I had a case I talked about on the floor where a child was denied a medicine. She was 3 years old and had cancer. It was $54 for the medicine and the HMO denied that medicine. That child suffered so with nausea and all the rest, while the head of that HMO, because of a huge merger—and I asked my staff to check this because I could hardly believe it—made $800 million in the course of that merger. But they denied a drug to a little baby suffering from cancer—$54.

I heard my colleagues on the other side—some of them against this bill—say: We can't legislate by anecdote. Well, I have to tell you, when you hear one story, and then another and another, from people you never heard of, and you hold hearings and the people come out and tell the stories, then we know there is a need to pass this Patients' Bill of Rights. So I would vote

for this to protect the infants, and then I will vote to protect everyone in this country because everyone deserves protection from HMOs who put their bottom line ahead of people's health.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I am going to urge the Senate to accept the amendment tomorrow. I think we have had a good discussion about it. I hope that we will move ahead and accept it. I am prepared, when the Senators yield the time or use the time, to do that.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I thank the Senator from California for her comments and support of this amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 846

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself and Mr. ENSIGN, proposes an amendment numbered 846.

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

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

The amendment is as follows:

(Purpose: To apply the bill to plans maintained pursuant to collective bargaining agreements beginning on the general effective date)

Beginning on page 173, strike line 19 and all that follows through line 14 on page 174, and insert the following:

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—The amendments made by sections 201(a), 301, 302, and 303 (and title I insofar as it relates to such sections) shall apply to group health plans maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers beginning on the general effective date.

Mr. NICKLES. Madam. President, I will be brief. I hope this amendment can be agreed to. In the underlying bill on page 173, it has ''effective dates'' for implementation of the legislation. The effective date for everybody, all plans in America, is by October 1, 2002. So that is when all the plans in America will have to comply with this bill. They will have to have the patient protections in line, the appeals process, the liability sections—all are mandated to be effective by October 1 next year. That is about 14 months from now.

If you continue reading on page 173, you find out that the plans that are covered by collective bargaining agreements are exempt. They are exempt from the legislation. It says they ''shall not apply to plan years beginning before the later of—(A) the date on which the last collective bargaining agreements relating to the plan terminates.''

Some of these plans may not terminate for months. Some may not terminate for years. As a matter of fact, looking at a couple of examples, one is the Plumbers and Pipefitters Union, with 2,200 employees, has a 128-month contract. It doesn't expire until 2010. The International Union of Electric Workers, with 1,800 employees, has a 148-month contract that doesn't expire until the year 2007. I could go on and on. There are lots of examples.

The point is that there are about 30 million lives that would be exempt from this bill for years. If we are going to make it apply to everybody else in the private sector, I think we should make it apply for collective bargaining plans as well.

There is also something else that is troubling to me. It says it would not apply until the plan terminates, and then the language says if they adopt these patient protections, that still doesn't count as a plan termination, a collective bargaining agreement termination. So, in effect, even though a plan adopts it, it hasn't terminated and, therefore, it is still not covered or enforced by the terms of this bill. I find that troubling. I also am troubled by the fact that when it says ''relating to the plan terminates,'' a lot of plans or contracts don't terminate. They are renegotiated. So they never get to termination. They are actually renegotiated and extended. That is well and good. That means there is peace and harmony and no labor shortages and so on.

My point is that it is very important for us not to be exempting 30 million workers who happen to be in collective bargaining agreements from the protections in these plans. If we are going to give these protections to 170 million workers in the private sector, in that 170 million are included 30 million who happen to be members of a collective bargaining agreement. They should have the patient protections that Congress is in the process of determining which are so vital for everybody else in the private sector. They should not be exempt because they happen to be members of the collective bargaining unit. We are asking every other plan in America to comply by October 1. Why would we not ask members of collective bargaining agreements to also comply? Why should we have them have different expiration dates, some of which might be 5, 10 years, or even longer?

Maybe this is an oversight, a mistake from a previous drafting; but, clearly, if these are such valued protections that we want to extend them to the private sector, we should certainly extend them to members of collective bargaining agreements as well.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I yield myself 5 minutes.

Madam President, I direct my colleagues' attention to the lines 15 and 16 on page 173. They talk about ''for plan years.'' That is an art of words that applies to insurance companies, and it says, ''beginning on or after'' plan years. As we know, the insurance starts generally at the first of every year. So with regard to insurance companies, the Senator is completely wrong. This does not apply for insurance companies because there are existing contracts.

We have heard a great deal in this debate about the sanctity of the HMO contract and how we are not going to permit—in terms of the standards for the treatment of patients—they are going to be tied completely to the contract. I don't know how many hours I listened to that. Now we see that we are respecting the contract in insurance and we expect the same—to respect the contract in terms of collective bargaining. It is simple as that.

This is boilerplate, Madam President. We did this in the HIPAA program, and there was no row about it at that time. People understood. There was a normal transition, and we didn't have objections at that particular time. So that is what we have done here. There are existing contracts in insurance, and we take it to the next time when the insurance plans are going to be implemented. There are existing collective bargaining agreements. We are going to take it at the next time when they are going to be renegotiated because of the respect for the existing contracts.

So what is sauce for the goose should be sauce for the gander, Madam President, particularly when we are listening to so much about the importance of contracts and that we ought not interfere with them, even if it is going to be as a matter of medical necessity, and that we are going to be bound by them because they are so important and sacred. There is a sanctity of the contracts.

I listened to that for 5 hours, and now we find out in the final hours of this that, oh no, that is not true regarding collective bargaining. We are going to interfere with ongoing collective bargaining agreements. That just doesn't make sense. This is what we have done at other times. It says insurance, generally, at the start of a year—some are longer and they will be respected in that way just as we do regarding collective bargaining. I hope this amendment will not be accepted.

Mr. NICKLES. Madam President, I appreciate my colleague's statement, but I totally disagree. Some of us have argued for contract sanctity, but we haven't been totally successful, I might add. Almost all those contracts would begin, if not by October 1, certainly by January 1 of the year 2003. So maybe there are a few more months. But under collective bargaining agreements, if you read the language on page 174, it is not until the contract or the agreement terminates. And then the second part of it says that even if they comply, it shall not count as a termination.

You could have collective bargaining agreements exempt under this provision indefinitely for 12 years. They may never terminate the agreement. They may continue rolling it over, so it is never terminated. It might be readjusted; it might be renegotiated; but it is never terminated. Are we going to take 30 million Americans and say: You are not covered by these patient protections?

Some of these contracts will last 10 years, 15 years. The average contract I was looking at had a schedule of 5 to 6 years. One I mentioned does not expire until the year 2010. If they renegotiate it between now and next year, the duration of the contract will be exempt. We are telling everybody else in the private sector: Get your act in order, and by the end of next year you have to have these new patient protections, oh, unless you are a member of a collective bargaining agreement.

This is not the only exemption we found. We did not cover Federal employees. Maybe I will have an amendment dealing with Federal employees. All these great patient protections do not apply to Federal employees. They do not apply to Medicare. They do not apply to Indians in our hospitals. They do not apply to veterans.

These are patient protections that are so important for the country, but we do not give them to publicly funded plans; we only do it for private sector plans.

What about unfunded mandates? What about union plans, collective bargaining? We leave them out. We leave out Government plans; we leave out union plans; but it is fine we are going to hit the private sector. Unions, this does not apply for the duration of your collective bargaining agreement, and if it does not terminate, you are never covered.

I think that is a serious mistake, so I urge my colleagues to support the amendment.

I thank my friend and colleague from Nevada for his support of the amendment as well.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the Senator ought to read page 174 because this language is very clear, precise, and exact. It does not permit what he just said it permitted, and that is the rollovers. It just does not permit it.

The Senator can state it, and he can misrepresent it, which he just has, but it is not the fact. On line 5, it says: ''relating to the plan terminates,'' and that is when it ends. That is when it has to be implemented.

This idea that it can roll over and over, for 10, 15 years, is not what the legislation says. The fact is, with insurance, many start in January, many others start in July. We have tried to say when that contract plan year, which is a term of art that refers to when that insurance transitions, we will implement it at that time, and the same should be true with the collective bargaining agreements.

I would think the overwhelming majority of the workers and employers would be eager to get these protections. We are going to find out many will work out arrangements so they get the protections even earlier.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield to the Senator from Nevada such time as he desires.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Madam President, I have a story that was told by the junior Senator from North Dakota on the Senate floor the other day. It is about a young man, Christopher Thomas Roe, who is from Nevada. He was attending Durango High School and was diagnosed with acute lymphocytic leukemia. As anybody who has had a child with that terrible disease knows, sometimes the treatments are not very successful.

During the course of his treatment, the doctors were recommending a certain type of experimental treatment, and as we have heard throughout this bill, sometimes that experimental treatment has to be had at a certain time of treatment, and waiting for its approval sometimes leads to that treatment not being able to be given to that patient. That is exactly what happened to Christopher Thomas Roe. He was not able to receive this type of a treatment in a timely manner.

His father is a school district employee in the State of Nevada. He is not a teacher, but he is an employee of the school district. There is an employee trust fund that has been set up to provide health insurance to school district employees. Based on our discussions with the Department of Labor, this trust fund, because of the way it was set up, would not be covered under the provisions of this bill.

Similarly, the 30 million people Senator NICKLES is talking about who deal with collective bargaining agreements are not covered adequately under this bill. If we are going to say to other people that they deserve these rights, we believe that people who are in unions deserve the same patient protections.

These patient protections right now do not just deal with lawsuits, they deal with provisions that everybody agrees with in the bill: The right of a woman to choose an OB/GYN as her primary doctor; the right of a family to say their children's primary care doctor is a pediatrician; the right to a reasonable layman's interpretation of whether emergency room care should be paid for when they have an emergency.

These patient protections we believe are very important to give not only to the 170 million people who are covered by the underlying bill, but also those who are covered in collective bargaining agreements.

If there is tweaking of the language that needs to happen with this amendment, then let's tweak the language. The bottom line is this is not an anti-union agreement. This amendment says we want union workers to have the same rights as other people.

I would think the other side of the aisle, who are generally in favor of union workers, would be on our side on this amendment. If the other side thinks this amendment needs a little tweaking, maybe we can do that, but right now as we read the bill, as we have had some of the legal experts look at the bill, collective bargaining agreements would supersede and not allow union workers who are covered under those collective bargaining agreements to be covered under this Patients' Bill of Rights.

I urge our colleagues to work with us and to make sure those union workers get the same protections as other people in America are going to receive.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, how much time do I have?

The PRESIDING OFFICER. Six minutes.

Mr. KENNEDY. I did not understand, did the Senator say that public employees were not covered? Does he understand that to be the case?

Mr. NICKLES. The Senator is correct. Federal employees are not covered by the underlying McCain-Kennedy bill.

Mr. KENNEDY. I understand he was talking about teachers in Nevada; public employees is the example he gave. I find this enormously interesting because both Senators voted for the Collins amendment that excluded 139 million Americans. They only included 56 million. They were going to have the protections. The others were going to be dependent upon whether the States actually moved ahead and passed the various protections.

One of the groups that was left out of the Collins amendment was public employees, such as firefighters, schoolteachers, and others. We resisted that. No one has fought harder to make sure

we are going to have comprehensive coverage since day 1 of this program. Now we are being flyspecked because somehow there are some who, under certain circumstances, are going to come into these protections on a different calendar.

Madam President, we have tried to include people who are going to have coverage from insurance. We are going to respect the contract. When those insurance contracts expire, whether it is in January, whether in July, the protections go into effect. The same is true of the collective bargaining agreement. We have done that in other times. It has worked, and worked effectively. As I say, I believe the consumers, as well as employers—the employers from whom we have heard, and we have had many examples—indicate they cannot wait to get these protections in place. It isn't that people will delay getting in; it will be because they want to get in and get in more quickly.

The PRESIDING OFFICER. Leader time has expired.

Mr. NICKLES. I ask unanimous consent for 2 additional minutes.

Mr. KENNEDY. Then I ask for 4, 2 each side.

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

Mr. NICKLES. A couple comments. The average length of collective bargaining agreements: 66 percent of collective bargaining agreements with over 1,000 employees—that is over 1,200 collective bargaining agreements—the average length is 3 to 5 years; 28 percent are 5 to 6 years; an additional 7 percent are 6 to 8 years.

My point is these things last for years. People renegotiate their health care plan. Federal employees do this every year. Almost everybody does it every year. So for the health care plan for everybody else in the private sector, you have to comply by next October, 12 months from now, maybe even January of next year; you will have to comply. But if you are in a collective bargaining plan, you wait until the plan terminates.

We asked the Department of Labor, does the plan terminate if renegotiated and rolled over? Not necessarily.

In collective bargaining, you are talking about 30 million Americans who will not receive the so-called benefits under this bill. That is a fact.

Another fact: My colleague said we supported an amendment by Senator COLLINS that said let the States use their State protections. I strongly agree with that. That is a reason I will vote against the underlying bill, because I don't think we should preempt States as the Kennedy-McCain bill does. I believe in that strongly. I know my friends and colleague from Massachusetts have a different belief. We could debate that for hours.

My point is, if the patient protections are so good—and I heard many sponsors say we should cover all Americans—the bill does not cover all Americans. As a result of the language we have been debating, collectively bargaining agreements are exempt for years. The bill we are debating now does not cover public plans; it does not cover Medicaid; it does not cover Medicare; it does not cover public employees; it does not cover the military; it does not cover veterans; it does not cover Federal employees.

We have control over Federal employees. If the patient protections are so good for the private sector, why not for collective bargaining plans as well?

Mr. KENNEDY. Madam President, it is interesting to listen to my friend and colleague. The fact is, the last President, President Clinton, put those in through Executive orders to cover those because of the delay of the Republican leadership in letting us get through this bill over the last 5 years. So rather than wait and wait and wait, we had a Democratic President put them into effect.

Now if a collective bargaining unit or contract expires on October 2, they go in prior to the time of the insurance coverage. They will go in months ahead of the insurance. If the contract expires on October 5, that goes in before July of the next year. So they get more protections than those being covered by the insurance.

This is just a way of saying if the contracts are out there, we are going to respect the termination of those contracts, whether it is in the insurance or in collective bargaining. Evidently, the Senator wants to use this as a device to punish some of their enemies, the unions in this case, to try to use the legislative process to do so. I hope we will reject that.

Mr. NICKLES. I yield myself 5 minutes off the leader time.

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

Mr. NICKLES. I thank my friend, Senator BROWNBACK. I am the third Senator squeezed in front of him, and he has shown great patience. I will be brief.

My colleague from Massachusetts said President Clinton gave these protections to Federal employees because he couldn't wait for the Republican Congress to pass them.

The facts are, Federal employees do not have patient protections that are nearly as expensive, as aggressive, as intrusive as we are getting ready to impose on the rest of the private sector. I may have an amendment tomorrow to address that so we can save that for tomorrow's debate.

The patient protection that President Clinton passed is not nearly this big. Federal employees cannot sue their employer. When they have an appeal process, they do not go to an independent party; they go to OPM, Office of Personnel Management; they go to their employer. We do not do that in this bill. Maybe we will debate that tomorrow.

Finally, he said in collective bargaining plans, they have to be covered when the plan terminates. My point is the plan can be renegotiated. You are talking years. Sixty-six percent of collective bargaining plans are 3 to 5 years.

Then it says if they go ahead and implement it, it is not counted as a plan termination; therefore, it is not effective. Let's give union members the same protections we give all other private sector employees.

I thank my colleagues and my colleague from Massachusetts and particularly my colleague from Kansas for his patience in allowing us to go forward.

Mr. KENNEDY. I am prepared to yield back the time.

The PRESIDING OFFICER. All time is yielded back.

Mr. NICKLES. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 847

Mr. BROWNBACK. I send an amendment to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 847.

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

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

The amendment is as follows:

(Purpose: To prohibit human germline gene modification)

At the end of the bill, add the following:

TITLE—HUMAN-GERMLINE GENE MODIFICATION

SEC. 01. SHORT TITLE.

This title may be cited as the ''Human Germline Gene Modification Prohibition Act of 2001''.

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering, of existing people. Its target population is ''prospective people'' who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as ''damaged goods'', while the standards for what is genetically desirable will be those of the society's economically and politically dominant groups. This will only increase prejudices and discrimination in a society where too many such prejudices already exist.

(3) There is no way to be accountable to those in future generations who are harmed

or stigmatized by wrongful or unsuccessful human germline modifications of themselves or their ancestors.

(4) The negative effects of human germline manipulation would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm probably often fatal as the result of only a few instances of germline manipulations.

(5) All people have the right to have been conceived, gestated, and born without genetic manipulation.

SEC. 03. PROHIBITION ON HUMAN GERMLINE GENE MODIFICIATION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

"CHAPTER 16—GERMLINE GENE MODIFICATION

''Sec.
''301. Definitions
''302. Prohibition on germline gene manipulation.

"§ 301. Definitions

''In this chapter:

''(1) HUMAN GERMLINE GENE MODIFICATION.—The term 'human germline gene manipulation' means the intentional modification of DNA in any human cell (including human eggs, sperm, fertilized eggs, zygotes, blastocysts, embryos, or any precursor cells that will differentiate into gametes or can be manipulated to do so) for the purpose of producing a genetic change which can be passed on to future individuals, including inserting, deleting or altering DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA. The term does not include any modification of cells that are not a part of and will not be used to create human embryos. Nor does it include the change of DNA involved in the normal process of sexual reproduction.

''(2) HUMAN HAPLOID CELL.—The term 'haploid cell' means a cell that contains only a single copy of each of the human chromosomes, such as eggs, sperm, and their precursors.

''(3) SOMATIC CELL.—The term 'somatic cell' means a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or decreased human body at any stage of development. Somatic cells are diploid cells that are not precursors of either eggs or sperm. A genetic modification of somatic cells is therefore not germline genetic modification.

Rule of Construction: Nothing in this Act is intended to limit somatic cell gene therapy, or to effect research involving human pluripotent stem cells.

"§ 302. Prohibition on germline gene modification

''(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce—

''(1) to perform or attempt to perform human germline gene modification;

''(2) to intentionally participate in an attempt to perform human germline gene modification; or

''(3) to ship or receive the product of human germline gene modification for any purpose.

''(b) IMPORTATION.—It shall be unlawful for any person or entity, public or private, to import the product of human germline gene modification for any purpose.

''(c) PENALTIES—

''(1) IN GENERAL.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

''(2) CIVIL PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiple by 2, if that amount is greater than $1,000,000.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

''16 Germline Gene Modification ..... 301''.

Mr. BROWNBACK. Madam President, I rise today to offer an amendment to the Patients' Bill of Rights. This amendment is about human germline gene modification. That is a long way of saying—and I will go into this for a period of time—stopping people from attempting to modify the human species with outside genetic material. It may seem strange. It happens in livestock, genetically modified organisms. Some people are researching and discussing doing this within the human species to create better people. I think it should be stopped, prohibited, removed.

I looked for a better vehicle for this amendment, for another bill that was a closer fit. It is a medical issue on the medical front. If we get an agreement that I get a freestanding bill, I will do it that way. Having not been able to do that, we offer it as an amendment now.

My amendment prohibits human germline gene modification. What is that? Technically, it is the process by which the DNA of an individual is permanently changed in such a way that it permanently affects his or her offspring. Normally this is a DNA modification in either the egg or the sperm within the human species, so when they combine, that genetic modification is carried in that person and in future organisms, in future people. So it starts at this single stage, the egg or the sperm, molded together and multiplied in future generations.

This is not about genetic therapy; it is not about stem cell research; it is not about human cloning. All those are other issues for another day that do need to be considered but not here. My amendment in no way hinders genetic therapy or other medical interventions that treat patients suffering from diseases.

My amendment is about eugenics. For those not familiar, that is the process or means of race improvement previously tried by many diabolical methods or schemes, generally looked at as restrictions of mating, of so-called superior people together, and now being attempted, talked about, pressed forward by adding genetic material of humans from outside the species.

This is ugly stuff, and it should be stopped. It is about what we as a society are willing to allow and not to allow. The issue of germline genetic modification is about our ability to create designer babies, choose eye color, height, or IQ. I offer this amendment, well aware that many of my colleagues understandably may be unaware of these so-called advances being made in the field of biotechnology and the impact those advances will inevitably have on the human race.

I come from an agricultural background. I used to be a Secretary of Agriculture in Kansas. These are things we commonly do now in plants, and we are having research done extensively in animals. People are talking about bringing some of the same technology to humans. It has to be stopped and should be stopped.

Many of the advances promise great achievement for mankind and a betterment of human conditions. Some of the advancements in biotechnology do not. Human germline gene manipulation is one of those. It is one of those advances discussed mostly in theoretical terms until recently. More disturbingly, it is the realization of the age-old quest to design better people. Germline gene manipulation is the summit of the eugenics movement. One of the groups we have consulted with prior to preparing this amendment is a group chaired by Claire Nader, the sister of former Presidential candidate Ralph Nader. It is a group she has been associated with, the Council for Responsible Genetics. They are unequivocally opposed to human germline gene modification.

The Council states this:

> We strongly oppose the use of germline gene modifications in humans.

They continue:

> Today, public discussion in favor of influencing the genetic constitution of future generations has gained new respectability with the increased possibility for intervention. Although it is once again espoused by individuals with a variety of political perspectives, modern eugenic programs are now defended as driven by individual need, choice. But the doctrine of social advancement through biological perfectibility underlying the new eugenics is even more potent than the older version. Its supporting data seem more scientifically sophisticated and the alignment between the state, through its support of the market and the individual exercising so-called free choice, is unprecedented.

The Council goes on to state further:

> These considerations make the social and ethical problems raised by germline gene modification very different from those raised by genetic manipulations, that target certain nonreproductive deficiencies in organs of patients, again in somatic cell gene modification.

As the Council states in very clear terms:

> The underlying political philosophy of those who support germline gene modification has been sanitized with new terms, but is in reality the same old eugenic message with which the 20th century was deeply and direly afflicted. In numerous conversations that I have had with Dr. Francis Collins, who

heads the National Human Genome Research Institute here in Washington, who has had a fantastic report that was out last year on the Human Genome Project, reported out a beautiful array of the complexity of the genetic structure in each and every one of our 10 trillion cells and if we printed out that genetic structure and had it in front of us, it would be a stack of paper 100 feet taller than the Washington monument.

We have talked about the beauty of the human genome and also talked about the potential for problems in its manipulation, as that could be carried onto future humans.

Madam President, human germline gene modification is not needed to save lives or alleviate suffering of existing people. Its target population is prospective people who have not been conceived. The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as damaged goods, while the standards for what is genetically desirable would be those of the society's economically and politically dominant group. We have heard these themes before. This will only increase prejudices and discrimination in a society which already has too many of these.

There is no way to be accountable to those in the future generations who are going to be harmed or stigmatized by the wrongful or unsuccessful human germline gene modification of their ancestors. The negative effects of human germline modification would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm, probably often fatal, as a result of only a few instances of germline manipulations.

All people have the right to be conceived, gestated, and born without genetic manipulation. Human germline gene manipulation will only serve to turn human beings into commodities with traits that are bought and sold, with attributes that are determined by technicians, and parents who want to exert genetic tyranny over their offspring. This is a step too far. This is grossly unethical for it to happen. I urge the Senate to adopt my amendment to prohibit it once and for all.

Again I put forward, in layman's terms, what this is about. This is about getting and adding outside genetic material into the human species, whether it be plant—tomato—or animal—chicken—from a tree somewhere that a snippet of genetic material would be added in, at the egg or the sperm level. Once added in there, when the union occurred it would be in that human and also then passed on to future generations. That is what we are talking about here. It is not about any sort of gene therapy or any of the other issues. It is not about cloning either, which is the identical replication. This is adding in the outside genetic material.

I think everybody would look at this and say that is not a road we want to go down. Yet some people today are contemplating doing this.

I want to add a couple of other points. The European Council on Biomedics has stated its opposition to this human germline gene modification. I think the civilized world really needs to step up right now, before people get going and moving forward, saying: We could make people taller. We could make people live longer by this modification. We found a gene line in trees that we could put in earlier, to the human species, and cause this to happen. We have a way to manipulate or change this—without knowing in any way down in future generations what this impact is.

We can send a strong, clear signal at this point in time that we want nothing to do with this, that this is wrong, this is eugenics, this is the height of eugenics, and it should not take place. The Europeans are moving that way. We should as well as much of the rest of the civilized world, and say we want no part of this, and we can do that with a clear, I hope unanimous, vote of the Senate, saying this is wrong.

I know people differ on some of these other biotechnology issues, such as cloning. That is left for another day. The language in this bill is clear, specific; it is easy to understand. We may have differences on some of the other issues we may get into over a period of time, but this is one, as I have searched around, where there is a broad coalition, left and right, that says yes, this one should be banned. That is why we worked closely with Ms. Nader's group, consulted with biotechnology groups, who were saying: Yes, this is not a place we should be going either. Here is a place we can stop this.

This is the only vehicle I could see where there was some connection bringing this up. If we could do it on a freestanding bill at some time on the floor, I would be happy to do that, but absent that, I would like to get this considered on this bill.

I yield the floor. I don't know that there is a time agreement on this amendment. Is that correct?

The PRESIDING OFFICER. There is a time agreement. There is 1 hour evenly divided.

Mr. BROWNBACK. Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I want to express a great deal of respect for my friend and colleague for his concern and interest in a great variety of different public policy issues, and also their ethical implications. He studies these issues. He is concerned about them. He brings them into the public debate and discussion. We always listen with great interest to his presentations on these matters because he has given this a great deal of thought.

Even so, I must rise to oppose this amendment. I can understand the good Senator's frustration that we do not have a real opportunity to have the kind of debate on a freestanding bill that could give the Senate the benefit of a good discussion on this issue. Unfortunately, we are here at 20 minutes of 10. There are just a few of us here at this time, and we will only have a few minutes tomorrow to deal with an issue of enormous importance and consequence.

Millions of American children are born with deadly diseases such as cystic fibrosis and muscular dystrophy that result from flaws in the DNA code. One of the most promising ways to cure these afflictions is to correct these DNA errors using gene therapy. If these flaws could be corrected before birth, millions of children could live their entire lives free of the debilitating symptoms of cruel genetic disorders.

Yet the Brownback amendment would ban any attempt to cure children of deadly disorders such as cystic fibrosis and muscular dystrophy by correcting their DNA flaws before birth.

It even goes so far as to imprison doctors who try to save their lives and relieve their suffering.

The Brownback amendment is opposed by a wide range of organizations representing patients, doctors, scientists, and the biotechnology industry. They know this amendment would have a chilling effect on the biomedical research that gives hope to millions of Americans at risk for genetic diseases.

The amendment is so broad that it will criminalize several promising areas of biomedical research, even including gene therapy in adults.

This important, complex topic deserves a thoughtful and measured response, and not the indiscriminate prohibition that the Brownback amendment proposes.

The American people do not support the sweeping prohibitions that the Brownback amendment would impose.

A recent study funded by the NIH conducted by the University of Michigan found that 65 percent of the public opposed a ban on prenatal gene therapy, and only one in five of those support such a ban.

There are great numbers of genetic diseases, and there are great numbers of inherited diseases. Those that come to mind quickly are cystic fibrosis and muscular dystrophy, Tay-Sachs, Cooley's disease, and many others in the cystic fibrosis area.

It is basically an issue involving a single gene. That is also true in muscular dystrophy.

Just think if we were able to get to the point where a parent would be able to see the alteration of that gene so that the child that was going to be born would be free from muscular dystrophy or from cystic fibrosis by altering the DNA.

We can easily understand where the language that is included may not be the purpose of the Senator, but certainly the language I think is sufficiently vague as to prohibit some promising research.

At this time, I think this is a matter of enormous importance. I don't think we really ought to be dealing with this issue on this bill.

I can understand the Senator's frustration in not being able to have the debate in the Senate and to hear the different views on this issue. But I believe we ought to defeat the amendment for now, have additional review and study and hearings, and that we ought to then consider the various public policy issues and the ethical issues that surround it.

Mr. REID. Madam President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. REID. I would like to ask the Senator a question. A couple of years ago when I was chairman of the Democratic Policy Committee, one of the issues at the time was cloning, for lack of a better description. We had a luncheon at the Democratic Policy Committee. This may not be directly in point, but it points up what the Senator is saying. This is a very complex issue. We need more time and medical expertise to respond to this.

But the Senator will remember that we had a hematology professor from Harvard. We had the leading expert on gene therapy at NIH. The Senator will recall a number of things. The thing that is so vivid in my mind is the Harvard professor, who was of course a practicing physician, gave an example of how progress is being made in the medical field and in the areas that need more study.

He said that a young woman with leukemia was referred to him. I do not know the scientific name nor the type of leukemia. He did the examination and looked at the information he had been given.

The Senator will recall that the doctor asked this young lady if she had a brother or sister. She said no. He said that right then he knew she was in big trouble. She probably couldn't make it and would die.

The next day, the Senator will recall, another teenager came in with leukemia. It was the same process. He asked this young man if he had a brother or sister. He said no, and paused for a second. He said: I am a twin. The doctor said that he knew right then that the young man was going to live as long as anybody in this room because they could do a bone marrow transplant and regenerate those cells.

I don't fully understand what the Senator from Kansas is advocating with his amendment. I know he is candid and is well placed. I know after having listened to the woman from NIH and the professor from Harvard that I have great hope progress is being made on some of the most dreaded diseases that face especially children in America today.

The Senator from Massachusetts and I know how well-intentioned the Senator from Kansas is. I think we should defeat this amendment and wait for a later day so we can have more opportunity to examine this more closely.

The Senator remembers that meeting in the room right down the hall here?

Mr. KENNEDY. I do remember. All of us as Members of this body get a chance to go out to NIH and visit with the researchers and listen, watch, and hear about those extraordinary, dedicated men and women who are dealing with so much of the cutting edge research.

I think we want to make sure that we are very careful in the steps we are going to take that in some way would inhibit research. There are obviously strong ethical issues which we constantly have to examine and consider.

But I am very much concerned about the kind of prohibition that this type of amendment would include.

I want to make it clear that the amendment that the Senator from Kansas puts forward does not ban cloning, but it would ban similar cutting edge research.

That is what our concern is and why we will oppose it tomorrow.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I would like to correct some miscalculation with the Senator from Massachusetts. I want to read from the amendment because he represented a couple of examples that we specifically state in the bill we are not prohibiting.

On page 4 of the amendment under ''construction,'' it states specifically that:

> Nothing in this Act is intended to limit somatic cell gene therapy, or to effect research involving human pluripotent stem cells.

This somatic cell gene therapy is what you are talking about where you have already the sperm and egg, and you have a full chromosome. That is where you may want to make changes, and that is where the research is focused. Now they can deal with some of the dreaded diseases the Senator from Massachusetts says we should rightly try to deal with. I agree that we should.

We specifically added that. We covered that point the Senator raised and about which he has concern because we don't want to impact that area. We talk about this on page 3. It says:

> The term ''human germline gene modification'' means the intentional modification of DNA in any human cell for the purpose of producing a genetic change which can be passed on to future individuals.

In this amendment we are saying: Do we really want to change the human species without knowing what the impact is going to be down the road? Maybe we have a shot at changing this one, but what is it going to do to the next generation, the second one, the third one, the fourth one, and after that?

I also point out to the good Senator who has worked tirelessly to get this bill through to passage—I appreciate both his work and the work of the Senator from Nevada on just continuing to press forward. They have done a very good job. But I point out to them that we have significant limitations on doing this to animals. Right now, if you wanted to take a fish and put a tomato germline in it, or something from a tomato gene—actually this is being done—this is a heavily regulated area by FDA, and the USDA, as well it should be. My goodness, do we want to get super fish out here that could swim and do things and take over a whole area of species? They are actually concerned. It may sound scientific, like this is just off the wall. But this is happening today.

We have these deep concerns within our society. You do not have to listen to me. The Senator from California knows what is taking place this week in southern California. People are deeply concerned about this being done with animals and plants.

All I am talking about with this amendment is to say, the careful thing for us to do right now is to prohibit it in humans.

As the Senator from Massachusetts knows, in any future legislative session we can remove that prohibition. We could do that next year. But wouldn't the careful, thoughtful thing be to say right now: ''We don't want to modify the human species''? It has no regulation, no limitation, no review on it today. People are out there doing these things.

Wouldn't the really thoughtful position be that we should stop this because we don't know its impact down the road—stop this now—and then, if the researchers really convince us this is the right thing to do, we can open it back up? I think we open up an incredible Pandora's box if we allow this unregulated area of human experimentation to continue at this time. And that is what is being defended here.

I think this should give us some thoughtful consideration. This is limited in its drafting. We have worked with a number of groups on its drafting. It is very specific. This has to do with it being passed down to future generations. This is something that we should prohibit at this time.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, there are several organizations that draw different conclusions about the Senator's amendment. You have the

Biotechnology Industry Organization that says:

Unfortunately, the Brownback amendment reaches far beyond germ line gene modification. It attempts to regulate genetic research—a complex and dynamic field of science that holds great potential for patients with serious and often life-threatening illnesses.

And from the Association of American Medical Colleges:

Much more troubling, however, the amendment reaches far beyond germ line therapy. Taken on its face, the amendment would prohibit other areas of research into gene therapy as well.

I ask unanimous consent an analysis be printed in the RECORD.

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

MEMORANDUM

JUNE 28, 2001.

To: Michael Werner, Esquire, BIO Bioethics Counsel.

From: Edward L. Korwek, Ph.D., J.D.

Re: Some Initial Comments/Analysis of the Brownback Amendment.

The Brownback Amendment is poorly worded and confusing as to its precise coverage. It uses a variety of scientific terms and other complex language both to prohibit and allow certain gene modification activities. Many of the sentences are composed of language that is incorrect or ambiguous from a scientific standpoint. A determination needs to be made of what each sentence of the Amendment is intended to accomplish.

As to a few of the important definitions, the term ''somatic cell'' is defined in proposed section 301(3) of Chapter 16, as ''a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or deceased human body at any stage of development.'' What does ''of almost all body cells'' mean? Is this an oblique reference to the haploid nature of human sex cells, *i.e.*, sperm and eggs? Also, why is it important to describe in such confusing detail from where the cells are derived (in contrast to simply saying, for example, a somatic cell is a human diploid cell)? From a scientific standpoint, the definition of a somatic cell is not dependent on whether the cell is from living or dead human beings. More importantly, as to this human source issue, when does a ''human body'' exist such that its status as ''living'' or ''dead'' or its ''stages of development'' become relevant criteria for determining what is a ''somatic cell.''

Similarly, the definition of ''human germline modification,'' especially the first sentence, is very convoluted. The first sentence states:

''The term 'human germline gene modification' means the intentional modification of DNA of any human cell (including human eggs, sperm, fertilized eggs (i.e., embryos, or any early cells that will differentiate into gametes or can be manipulated to do so) for the purpose of producing a genetic change which can be passed on to future individuals, including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA.''

Among other problems, which of the examples listed are ''sources'' or ''forms'' of DNA and why does it matter? Moreover, the sentence ends by referring to ''including DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA.'' To what part of the first sentence defining ''human germline modification'' is this language referring? Does the last sentence of the definition, ''Nor does it include the change of DNA involved in the normal process of sexual reproduction'' prohibit *in vitro* fertilization? Does any other part of the Amendment prohibit or allow *in vitro* fertilization? What genetic technologies does ''normal'' cover, if any?

Similarly, the second sentence in the definition, stating what is not covered by the definition of ''human germline modification,'' contains three ''not'' words, leaving the reader to decipher what exactly is ''not'' ''human germline modification'': ''The term does not include any modification of cells that are not a part of and will not be used to construct human embryos'' (emphasis added). Also, what is an ''embryo'' for purposes of this Amendment and what does ''part of'' mean? Are (fertilized) sex cells ''part of'' an embryo?

These and other problems leave the bill unsupportable in its current form. Due to this imprecision, the amendment's impact is unclear and seemingly far reaching.

Mr. KENNEDY. Madam President, a memorandum by Hogan & Hartson says:

The Brownback Amendment is . . . confusing as to its precise coverage. It uses a variety of scientific terms and other complex language both to prohibit and allow certain gene modification activities.

And it gives a several-page analysis of this.

The fact is, as I understand it, there is a moratorium now at NIH. NIH does not permit any of the research in transferring of the materials in terms of genes at the present time.

I just mention quickly, on page 3 of the amendment, on lines 10 and 11, it talks about ''for the purpose of producing a genetic change which can be passed on to future individuals . . .'' That ought to be a matter of concern to parents because that is an area of very great potential in terms of parents who have the gene—in terms of cystic fibrosis, muscular dystrophy—in trying to impact that kind of DNA so that they will not pass this on. Yet this is talking about restricting the research for ''producing a genetic change which can be passed on to future individuals . . .'' That very area is a matter of enormous importance and consequence.

I know the Senator has given this a lot of thought. It is enormously important. I respect him for it. I know that he revisits these issues continuously. We will look forward to continuing to work with him. I know he is incredibly concerned about the broad areas of ethical issues. In those areas of ethical concerns there are no simple, easy answers. There is enormous division, significant divisions, in many different areas.

But it does seem to me that in the time that we have available to consider this, and on this particular legislation, and with the very strong opposition of the research community generally, that it would be unwise for us to add this at this time to the legislation.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I would just note once more for my colleagues that the area of genetic manipulation, germline therapy, is regulated in animals and in plants but is completely unregulated—there is nothing on it—in humans.

Is that a responsible way for us to go? There is nothing on it. If we want to do it right now on the human species in the United States, go ahead, fine. If you want to do that, release that into us, into the human species, fine, go ahead. If you want to do it in fish, we have a series of hoops that you have to jump through and filings that you have to make and limitations on where this can take place all up and down, everywhere. But for humans, fine. I guess if we are going to eat it, we are concerned about it. But if it is one of us, OK.

I have deep respect for the Senator from Massachusetts. He is very thoughtful and one of the most productive Members of this body, probably in the history of this body. But I would really seriously ask him to look at this area. Is this something we want to do in this society? This is not only technically or theoretically feasible today; it can be done today. It has been done in the animal line for years now. This has been going on for 10 years-plus, 15 years in animals. The genetic lineup in animals versus humans is not that much different. Totally unregulated, no limitations—go ahead and do it in humans, not in cattle.

I would hope we could at least get some agreement that this is going to be further considered sometime during this legislative session. If we want more limited language, I am more than happy to work with individuals in drafting more limited language. If there is concern about gene therapy on it, I am willing to draft it as tight as they want to on gene therapy. That would be just fine by me. But to let this go on now, you are inviting people to step up. If we need to work with the groups the Senator listed to draft it more tightly, I am happy to do that.

This is a serious matter. We have more and more people in the streets protesting about this very thing. I think we should wake up on that particular point, if nothing else. We saw the protest that took place in Seattle. We saw what it did to the World Trade talks. That was on food. We are seeing what is taking place in the Biotechnology Expo in Southern California right now. That is on humans.

This issue is not going away. It is something that we are going to have to confront. I would hope and I would think we would be far wiser to do it sooner rather than later. I am happy to work with anybody on drafting the language to see that that takes place.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I will include the regulations which are in existence now. I ask unanimous consent they be printed in the RECORD.

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

[From pages 90–92—NIH Guidelines for Research Involving Recombinant DNA Molecules]

Appendix K–VII–K. Pathogen. A pathogen is any microbiological agent or eukaryotic cell containing sufficient genetic information, which upon expression of such information, is capable of producing disease in healthy people, plants, or animals.

Appendix K–VII–L. Physical Barrier. A physical barrier is considered any equipment, facilities, or devices (e.g., fermentors, factories, filters, thermal oxidizers) which are designed to achieve containment.

Appendix K–VII–M. Release. Release is the discharge of a microbiological agent or eukaryotic cell from a containment system. Discharges can be incidental or accidental. Incidental releases are de minimis in nature; accidental releases may be de minimis in nature.

Appendix L. Gene Therapy Policy Conferences (GTPCs)

In order to enhance the depth and value of public discussion relevant to scientific, safety, social, and ethical implications of gene therapy research, the NIH Director will convene GTPCs at regular intervals. As appropriate, the NIH Director may convene a GTPC in conjunction with a RAC meeting. GTPCs will be administered by NIH/OBA. Conference participation will not involve a standing committee membership but rather will offer the unique advantage of assembling numerous participants who possess significant scientific, ethical, and legal expertise and/or interest that is directly applicable to a specific gene therapy research issue. At least one member of RAC will serve as Cochair of each GTPC and report the findings of each GTPC to RAC at its next scheduled meeting. The RAC representative for each GTPC will be chosen based on the participant's area of expertise relative to the specific gene therapy research issue to be discussed. All RAC members will be invited to attend GTPCs. GTPCs will have representation from other Federal agencies, including FDA and OPRR. GTPCs will focus on broad overarching policy and scientific issues related to gene therapy research. Proposals for GTPC topics may be submitted by members of RAC, representatives of academia, industry, patient and consumer advocacy organizations, other Federal agencies professional scientific societies, and the general public. GTPC topics will not be limited to discussion of human applications of gene therapy research, i.e., they may include basic research on the use of novel gene delivery vehicles, or novel applications of human gene transfer. The RAC, with the Director's approval, will have the primary responsibility for planning GTPC agendas. GTPC findings will be transmitted to the NIH Director and will be made publicly available. The NIH Director anticipates that this public policy forum will serve as a model for interagency communication and collaboration, concentrated expert discussion of novel scientific issues and their potential societal implications, and enhanced opportunity for public discussion of specific issues and potential impact of such applications on human health and the environment.

Appendix M. Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into One or More Human Research Participants (Points to Consider)

Appendix M applies to research conducted at or sponsored by an institution that receives any support for recombinant DNA research from NIH. Researchers not covered by the NIH Guidelines are encouraged to use Appendix M (see Section I–C, General Applicability).

The acceptability of human somatic cell gene therapy has been addressed in several public documents as well as in numerous academic studies. In November 1982, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research published a report, Splicing Life, which resulted from a two-year process of public deliberation and hearings. Upon release of that report, a U.S. House of Representatives subcommittee held three days of public hearings with witnesses from a wide range of fields from the biomedical and social sciences to theology, philosophy, and law. In December 1984, the Office of Technology Assessment released a background paper, Human Gene Therapy, which concluded that civic, religious, scientific, and medical groups have all accepted, in principle, the appropriateness of gene therapy of somatic cells in humans for specific genetic diseases. Somatic cell gene therapy is seen as an extension of present methods of therapy that might be preferable to other technologies. In light of this public support, RAC is prepared to consider proposals for somatic cell gene transfer.

RAC will not at present entertain proposals for germ line alterations but will consider proposals involving somatic cell gene transfer. The purpose of somatic cell gene therapy is to treat an individual patient, e.g., by inserting a properly functioning gene into the subject's somatic cells. Germ line alteration involves a specific attempt to introduce genetic changes into the germ (reproductive) cells of an individual, with the aim of changing the set of genes passed on to the individual's offspring.

The RAC continues to explore the issues raised by the potential of in utero gene transfer clinical research. However, the RAC concludes that, at present, it is premature to undertake any in utero gene transfer clinical trail. Significant additional preclinical and clinical studies addressing vector transduction efficacy, biodistribution, and toxicity are required before a human in utero gene transfer protocol can proceed. In addition, a more thorough understanding of the development of human organ systems, such as the immune and nervous systems, is needed to better define the potential efficacy and risks of human in utero gene transfer. Prerequisites for considering any specific human in utero gene transfer procedure include an understanding of the pathophysiology of the candidate disease and a demonstrable advantage to the in utero approach. Once the above criteria are met, the RAC would be willing to consider well rationalized human in utero gene transfer clinical trials.

Research proposals involving the deliberate transfer of recombinant DNA, or DNA or RNA derived from recombinant DNA, into human subjects (human gene transfer) will be considered through a review process involving both NIH/OBA and RAC. Investigators shall submit their relevant information on the proposed human gene transfer experiments to NIH/OBA. Submission of human gene transfer protocols to NIH will be in the format described in Appendix M–1, Submission Requirements—Human Gene Transfer Experiments. Submission to NIH shall be for registration purposes and will ensure continued public access to relevant human gene transfer information conducted in compliance with the NIH Guidelines. Investigational New Drug (IND) applications should be submitted to FDA in the format described in 21 CFR, Chapter 1, Subchapter D, Part 312, Subpart B, Section 23, IND Content and Format.

Institutional Biosafety Committee approval must be obtained from each institution at which recombinant DNA material will be administered to human subjects (as opposed to each institution involved in the production of vectors for human application and each institution at which there is ex vivo transduction of recombinant DNA material into target cells for human application).

Factors that may contribute to public discussion of an human gene transfer experiment by RAC include: (i) new vectors/new gene delivery systems, (ii) new diseases, (iii) unique applications of gene transfer, and (iv) other issues considered to require further public discussion. Among the experiments that may be considered exempt from RAC discussion are those determined not to represent possible risk to human health or the environment. Full RAC review of an individual human gene transfer experiment can be initiated by the NIH Director or recommended to the NIH Director by: (i) three or more RAC members, or (ii) other Federal agencies. An individual human gene transfer experiment that is recommended for full RAC review should represent novel characteristics deserving of public discussion. If the Director, NIH, determines that an experiment will undergo full RAC discussion, NIH/OBA will immediately notify the Principal Investigator. RAC members may forward individual requests for additional information relevant to a specific protocol through NIH/OBA to the Principal Investigator. In making a determination whether an experiment is novel, and thus deserving of full RAC discussion, reviewers will examine the scientific rationale, scientific context (relative to other proposals reviewed by RAC), whether the preliminary in vitro and in vivo safety data were obtained in appropriate models and are sufficient, and whether questions related to relevant social and ethical issues have been resolved. RAC recommendations on a specific human gene transfer experiment shall be forwarded to the NIH Director, the Principal Investigator, the sponsoring institution, and other DHHA components, as appropriate. Relevant documentation will be included in the material for the RAC meeting at which the experiment is scheduled to be discussed. RAC meetings will be open to the public except where trade secrets and proprietary information are reviewed (see Section IV–D–5, Protection of Proprietary Data). RAC prefers that information provided in response to Appendix M contain no proprietary data or trade secrets, enabling all aspects of the review to be open to the public.

Note: Any application submitted to NIH/OBA shall not be designated as 'confidential;' in its entirety. In the event that a sponsor determines that specific responses to one or more of the items described in Appendix M should be considered as proprietary or trade secret, each item should be clearly identified as such. The cover letter (attached to the submitted material) shall: (1) clearly

indicate that select portions of the application contain information considered as proprietary or trade secret, (2) a brief explanation as to the reason that each of these items is determined proprietary or trade secret.

Public discussion of human gene transfer experiments (and access to relevant information) shall serve to inform the public about the technical aspects of the proposals, meaning and significance of the research, and significant safety, social, and ethical implications of the research. RAC discussion is intended to ensure safe and ethical conduct of gene therapy experiments and facilitate public understanding of this novel area of biomedical research.

In its evaluation of human gene transfer proposals, RAC will consider whether the design of such experiments offers adequate assurance that their consequences will not go beyond their purpose, which is the same as the traditional purpose of clinical investigation, namely, to protect the health and well being of human subjects being treated while at the same time gathering generalizable knowledge. Two possible undersirable consequences of the transfer of recombinant DNA would be unintentional: (i) vertical transmission of genetic changes from an individual to his/her offspring, or (ii) horizontal transmission of viral infection to other persons with whom the individual comes in contact. Accordingly, Appendices M–I through M–V request information that will enable RAC and NIB/OBA to assess the possibility that the proposed experiment(s) will inadvertently affect reproductive cells or lead to infection of other people (e.g., medical personnel or relatives).

Appendix M will be considered for revisions as experience in evaluating proposals accumulates and as new scientific developments occur. This review will be carried out periodically as needed.

Appendix M–I. Requirements for Protocol Submission, Review, and Reporting—Human Gene Transfer Experiments

Appendix M–I–A. Requirements for Protocol Submission

The following documentation must be submitted (see exemption in Appendix M–VI–A, Footnotes of Appendix M) in printed or electronic form to the: Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, MSC 7985 Bethesda, MD. 20892–7985 (20817 for non-USPS mail), 301–496–9838, 301–496–9839 (fax), E-mail: rosenthg@od.nih.gov. NIH OBA will confirm receipt within three working days after receiving the submission. Investigators should contact OBA if they do not receive this confirmation.

1. A cover letter on institutional letterhead, signed by the Principal Investigator(s), that (1) acknowledge that the documentation submitted to NIH OBA compiles with the requirements set forth in Appendix M–I–A, Requirements for Protocol Submission: (2) identifies the Institutional Biosafety Committee (IBC) and Institutional Review Board (IRB) as the proposed clinical trial site(s) responsible for local review and approval of the protocol; and (3) acknowledges that no research participant will be enrolled (see definition of enrollment in Section I–E–7) until the RAC review process has been completed (see Appendix M–I–B, RAC Review Requirements); IBC approval (from the clinical trial site) has been obtained; IRB approval has been obtained; and all applicable regulatory authorizations have been obtained.

2. The scientific abstract.

3. The non-technical abstract.

4. The proposed clinical protocol, including tables, figures, and relevant manuscripts.

5. Responses to Appendices M–II through M–V, Description of the Proposal, Informed Consent, Privacy and Confidentiality, and Special Issues. Responses to Appendices M–II through M–V may be provided either as an appendix to the clinical protocol or incorporated in the clinical protocol. If responses to Appendixes M–II through M–V are incorporated in the clinical protocol, each response must refer to the appropriate Appendix M–II through M–V.

Mr. KENNEDY. Finally, the reason there is a moratorium is there isn't reason to believe that this kind of research is safe today. But it may very well be safe tomorrow or the next day. And the possibilities, as I say, are unlimited. The action of the Senator may effectively close that window, close that door. I do not think that we ought to be in the position of doing that. So I have included the current state of the regulations that are in effect now in NIH and the reasons for those regulations.

Unless there is someone else who wants to speak on this——

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I would like to respond on that point as well. The FDA is saying they have authority over this. One of the groups they are seeking to regulate is saying they do not have authority, and they are going to sue them to keep the FDA from regulating them.

So regulations have been proposed, but it is a very open question about whether or not this applies to groups that are seeking to do this or seeking legal injunction prohibiting the FDA from regulating this. So we can put those on forward.

The fact is, this has not been dealt with, and it is of utmost importance to people in this country and around the world, and it should be. This should not happen during our watch.

The PRESIDING OFFICER. Does the Senator yield the remainder of his time?

Mr. BROWNBACK. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BROWNBACK. Madam President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Nevada is recognized.

AMENDMENT NO. 849

(Purpose: To provide for genetic nondiscrimination)

Mr. ENSIGN. Madam President, I call up amendment No. 849 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 849.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. ENSIGN. Madam President, the amendment that I have proposed really is entitled the ''protection against genetic discrimination act.'' The Senator from Massachusetts is one of the cosponsors of a bill that contains this particular amendment, along with 22 other Senators.

The mapping of the human genome is one of the most amazing scientific breakthroughs in recent history. Information that is embedded in the genome holds the key to understanding the illnesses and diseases that affect millions of people across the world every day.

I would like to note, this has nothing to do with the amendment that Senator BROWNBACK just proposed. We want to keep the controversies separate. What our amendment deals with is whether you can take this genetic information and use it to determine whether or not to provide health insurance coverage.

When the map of the human genome is completed, we will have all of the information that is contained in the 23 pairs of chromosomes in the human body. This information will be instrumental for finding the cure for diseases such as breast cancer, cystic fibrosis, Alzheimer's disease, and hundreds of other debilitating illnesses.

However, this breakthrough also carries great dangers. Current law does not provide any protections for individuals to keep their own genetic information private. Currently there is no law prohibiting a health plan from requiring an applicant to provide genetic information prior to the approval for insurance. In other words, any individual with a genetic marker for a specific disease would most likely not be able to receive health insurance coverage for the treatment of that disease.

A joint report by the Department of Labor, Department of Health and Human Services, the Equal Employment Opportunity Commission, and the Department of Justice summarized the various studies on discrimination based on genetic information and argued for the enactment of Federal legislation.

The report stated that:

Genetic predisposition or conditions can lead to work force discrimination, even in cases where workers are healthy and unlikely to develop disease, or where the genetic condition has no affect on the ability to perform work.

Because an individual's genetic information has implications for his or her family members and future generations, misuse of genetic information could have intergenerational effects that are broader than any individual incident of misuse.

Dr. Francis Collins, the director of the National Human Genome Research Institute, has stated:

While genetic information and genetic technology hold great promise for improving human health, they can always be used in ways that are fundamentally unjust. Genetic information can be used as the basis for insidious discrimination.

The misuse of genetic information has the potential to be, and is, a very serious problem both in terms of people's access to employment and health insurance and the continued ability to undertake important genetic research.

This amendment takes the first step toward providing individuals with the protections they need for their individual genetic information.

This amendment, as I mentioned before, is part of a larger bill that Senator DASCHLE has introduced on this very same subject. Simply put, this amendment prohibits health insurance companies from using genetic information when deciding whether or not to provide health insurance for an individual.

Insurance companies would not be able to use genetic information to deny an individual's application for coverage or charge excessive premiums.

Think about diseases such as Tay-Sachs, sickle-cell anemia, breast cancer, colon cancer, cystic fibrosis, and other diseases in which we have identified genes that predispose people to these diseases. Just think about how many Americans this affects now and will affect in the future as we discover new genes that predispose people to certain diseases. It is because of this that we must include this amendment if we are truly going to call this bill a Patients' Bill of Rights.

Madam President, my wife and I helped co-found the Breast Cancer Coalition of Nevada. Many of the women who are actively involved in this wonderful organization are breast cancer survivors or family members of women who have died from breast cancer. A wonderful friend of my wife and I, one of the most incredible women I have ever met, died in my wife's arms several years ago. She died of breast cancer. To think about women such as her who have had a gene identified, or maybe her daughter the same, to think about her someday being discriminated against getting health insurance is just unconscionable.

I encourage all of my Senate colleagues, including the sponsors of the bill, to accept this amendment. It is the right thing to do. I urge its adoption.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from North Carolina.

Mr. EDWARDS. Mr. President, we yield back the remainder of our time.

Mr. ENSIGN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. ENSIGN. Mr. President, I yield back the remainder of my time on this amendment.

AMENDMENT NO. 848

Mr. ENSIGN. Mr. President, I call up amendment No. 848 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 848.

Mr. ENSIGN. Mr. President, I ask that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide that health care professionals who provide pro bono medical services to medically underserved or indigent individuals are immune from liability)

At the end, add the following:

SEC. ____. IMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, no health care professional shall be liable for the performance of, or the failure to perform, any duty in providing pro bono medical services to a medically underserved or indigent individual.

(b) DEFINITIONS.—In this section:

(1) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' has the meaning given the term in section 151.

(2) MEDICALLY UNDERSERVED OR INDIGENT INDIVIDUAL.—The term ''medically underserved or indigent individual'' means an individual that does not have health care coverage under a group health plan, health insurance coverage, or any other health care coverage program, or who is unable to pay for the health care services that are provided to the individual.

Mr. ENSIGN. Mr. President, this next amendment I am offering comes once again from personal experience. I have a very close friend, Dr. Tony Alamo. He is a few years younger than me, and is an internist in Las Vegas. Our parents have known each other for a long time. He graduated from USC medical school. I don't know that I have ever seen anybody work harder.

Internists today don't make nearly the money that a lot of surgical specialists make, but the compassion that they have for their patients is just incredible. I remember a few years ago talking to him and what he had to tell me was amazing. As a practicing veterinarian, we get to choose who we take, who we don't take, and when they come into our offices. But as a physician, when he happens to be there treating another patient, if somebody comes in and he happens to be the attending physician, he has to treat that person, regardless of whether they have insurance or no insurance, can pay or cannot pay.

When he takes that person on as a patient, he cannot get rid of that patient. So he has to continue through the course of the disease, if he is in the hospital, has a heart condition, he has to continue regardless of whether he gets reimbursed or not.

The purpose of my amendment is to say we want them to continue that kind of care, but if out of the goodness of their heart they are treating for free, we just want to eliminate the possibility that they can be sued for such a matter.

We are looking at this as a situation that is similar to Good Samaritan laws. For example, when somebody stops on the side of the freeway because somebody is hurt and they don't know exactly what to do but they want to help and they happen to do more harm than good, we have passed laws across the country that helps a Good Samaritan in that regard.

The practice of medicine, as anybody who has practiced knows, whether it is veterinary medicine or human medicine, is both an art and a science. As a matter of fact, it is more art than science. Things go wrong. Sometimes things go wrong that may look like malpractice. And sometimes it is something the doctor had nothing to do with, yet they can still be taken to court.

Our amendment says that if health care professionals are going to do this, we want to protect those people from lawsuits.

It seems to me that if somebody is providing something out of the goodness of their heart on a pro bono basis, they could not be sued. In fact, I would support a similar proposal that granted lawyers the same protection. If they are providing pro bono services, they could not be sued. I think if this was a lawyer's bill of rights, we would include that as well. But this happens to be a Patients' Bill of Rights, and for the physicians that are treating these patients, we want to make sure they are protected.

We have spoken to Senator MCCAIN's staff and, apparently, they think the language is acceptable. I think in the long run this is going to go a long way. I have spoken to Senator FRIST who, as many of you know, is a heart surgeon. He does volunteer work in clinics, both overseas and also here in the United States. He doesn't get paid for these services. Yet, he has to maintain medical malpractice insurance. He pays premiums out of his pocket each year so that if he gets sued, he is covered.

This is probably the only amendment in this entire bill that actually will lower—it will only lower it slightly—the cost of health insurance. It would help lower both the cost of medical malpractice premiums and eventually the cost of coverage premiums for consumers as well.

Mr. President, I don't know if anybody is going to oppose this amendment. I can't understand why they would. I would be more than happy to engage in a debate on this if anybody has a problem with it.

I yield the floor at this time.

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

Mr. EDWARDS. First, I say to the Senator from Nevada that Senator Coverdell had a bill that he passed called the Volunteer Protection Act of 1997. It specifically provides protection for volunteers, including physicians, who provide pro bono services. So I suggest to my colleague, I don't know if he thinks there is a problem with that law or the way it is written. There is no way for me to know that based on this amendment. But a specific law already covers this subject matter. It was passed by the Senate and signed into law in 1997. So, first, I suggest that my colleague look at that law and make sure what he is concerned about is not covered by it.

Second, this Bipartisan Patient Protection Act is about HMO reform. It is not about physician liability or the lack thereof—either of those. We would certainly have a problem with adding an amendment to this legislation that is not related to the issue of HMO reform.

So I say to my colleague, again, understanding that we are just seeing his amendment, in fairness, I will be happy to talk with him about it, but those were my immediate concerns. There appears to be a law that already covers this subject matter. We would always be concerned, of course, even under those circumstances, about a health care provider who acted recklessly. I don't know whether his amendment covers that or not.

Third, the general issue of adding these kinds of provisions to an HMO reform bill, which is what this bill is about, would also be a concern.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. First of all, physicians I have spoken to do not think the bill the Senator is talking about adequately covers them. That is why they still have to carry medical malpractice insurance, similar to what Senator FRIST has to carry. My amendment would help lower the cost of this type of coverage, so we think this bill is necessary. I don't understand—if this is already covered in law, why would it be a problem to include it to make sure we are saying to the courts that we absolutely want to cover people who are providing pro bono services to the needy.

Mr. EDWARDS. I say to my colleague that if there is already a law in place that covers this issue, it seems as a matter of procedure that the appropriate thing to do would be to amend the already existing law that covers the subject matter, as opposed to adding this measure to an HMO reform piece of legislation.

So I guess, just as a matter of orderly process, that would make sense to me.

Mr. ENSIGN. We have been looking for a vehicle to include this in. We have wanted to deal with this for some time. This is a Patients' Bill of Rights, and I know it deals mostly with HMOs, but we are looking at our health care system and providing rights to patients. This is part of the health care bill that I think appropriately should have an amendment such as this, simply because I don't think there is any question that we are driving up health care costs in this country. If anything can help drive down, even a small amount, the cost of health care, I think we should do it.

If between now and tomorrow morning, if there is other language the Senator thinks we need to massage into our amendment, I would be more than happy to work with the Senator from North Carolina. But as it stands, we think this is an important amendment.

Mr. EDWARDS. Mr. President, I say to my colleague, I appreciate his comments. He and I are friends, and I would like to find a way to work on this. I will be happy to talk to him about this when we adjourn.

Having said that, I continue to have a significant concern about raising an issue on the HMO reform bill that is not related to HMO reform. We have pretty consistently throughout this debate opposed and defeated amendments unrelated to the coverage of this bill. There are obviously many subject matters that are related to the general area of health reform and health care. If we start adding amendments on all subjects of health care, we would never get this legislation completed and passed. I continue to have that concern.

I am happy to work with my colleague and listen to his concerns and work on language, although at this moment this is an amendment we would be compelled to oppose.

Mr. ENSIGN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the Patients' Bill of Rights on Friday, June 29, at 9 a.m., the Senate proceed to vote in relation to the following amendments, and it be disposed of in the following order, with no second-degree amendments in order prior to the votes; further, that there be 4 minutes of debate prior to each vote, and that the first rollcall vote be 15 minutes in length and subsequent rollcall votes be 10 minutes in length. The order of the votes tomorrow morning would be: Santorum, DeWine, Grassley, Nickles, Brownback, Ensign No. 849, and Ensign No. 848.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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.

Mr. REID. Mr. President, I indicated earlier in this debate that I would complete reading into the RECORD the names and titles of organizations that support the Patient Protection Act. Therefore the following is the final list:

Gateway; Gateways for Youth and Families in WA; George Junior Republic in Indiana; Gibault; Girls and Town in NE; Goodwill-Hinckley Homes for Boys; Greenbrier Children's Center; Growing Home in St. Paul, MN; Haddasah; Heart of America Family Services; Hemochromatosis Foundation; Hereditary Colon Cancer Association; Highfields, Inc. in Onondaga, MI; Holy Family Institute of Pittsburgh, PA; Home on the Range in Sentinel Butte in Sentinel Butte, ND; Hubert H. Humphrey, III—Former Minnesota Attorney General; Human Services, Inc.; IARCCA An Association of Children.

Idaho Youth Ranch; Indiana United Methodist Children; Infectious Disease Society of America; International Association of Psychosocial Rehabilitation Services; Jackson-Feid Homes in VA; Jane Addams Hull House Association; Jeffrey Modell Foundation; Jewish Board of Family & Children in New York, NY; Jewish Community Services of South Florida; Jewish Family & Career Services; Jewish Family & Children's Service in TX; Jewish Family & Children's Service in Minnetonka, MN; Jewish Family and Childrens Services; Jewish Family and Community Service; Jewish Family Service in Providence, RI; Jewish Family Service in Teaneck, NJ; Jewish Family Service in TX; Jewish Family Service of Akron, OH; Jewish Family Services of Los Angeles; Julia Dyckman Andrus Memorial Children's Center in NY; June Burnett Institute.

Kemmerer Village; Kentucky United Methodist Homes; KidsPeace National Centers, Inc. in PA; Lakeside, Kalamazoo, MI; LaSalle School, Inc. in Albany, NY; League of Women Voters; Leake and Watts Services, Inc. in Yonkers, NY; Learning Disabilities of America; Lee and Beulah Moor Children's Home in TX; Lupus Foundation of America; Lutheran Child & Family Service in Bay City, MI; Lutheran Child & Family Services; Lutheran Social Services of Wisconsin; Manisses Communications Group in RI; Maple Shade Youth & Family Services; Maryhurst, Inc.; Maryland Association of Resources for Families & Youth; Massachusetts Council of Family; Mental Fitness Center; Mental Health Liaison Group; MentalHealth AMERICA, Inc.; Methodist Children's Home in TX; Metropolitan Family Service of Portland, OR; Metropolitan Family Services of Chicago.

Michigan Federation of Private Child & Family Agencies; Mid-South Chapter of the

Paralyzed Veterans of America; Milton Hershey School in Hershey, PA; Missouri Baptist Children's Home; Missouri Coalition of Children's Agencies; Missouri Girls Town; Mooseheart Child City and School; Morning Star Boys' ranch in WA; Mountain Community Resources; Namaqua Center; Natchez Children's Home in Natchez MS; National Alliance for the Mentally Ill; National Association for Rural Mental Health; National Association for the Advancement of Orthotics and Prosthetics; National Association of Children's Hospitals; National Association of County Behavioral Health Directors; National Association of Development Disabilities Councils; National Association of People with AIDS; National Association of Private School for Exceptional Children; National Association of Private Special Education Centers; National Association of Protection and Advocacy Systems; National Association of School Psychologists.

National Association of Social Workers; National Association of Wholesaler-Distributors; National Black Women's Health Project; National Breast Cancer Coalition; National Catholic Social Coalition; National Catholic Social Justice Lobby; National College of Osteopathic Emergency Physicians; National Community Pharmacists Association; National Consumers League; National Council for Community Behavioral Health; National Depressive and Manic-Depressive Association; National Down Syndrome Congress; National Family Planning and Reproductive Health Association; National Health Council; National Hemophilia Foundation; National Marfan Foundation; National Mental Health Association; National Multiple Sclerosis Society; National Organization of Physicians Who Care; National Organization of State Association for Children in MD; National Parent Network on Disabilities; National Partnership for Women and Families; National Patient Advocate Foundation; National Psoriasis.

National Rehabilitation Association; National Therapeutic Recreation Society; National Transplant Action Committee; National Women's Health Network; Nation's Voice on Mental Illness; Nazareth Children's Home in Rockwell, NC; NETWORK; New Community Corporation in Newark, NJ; Newark Emergency Services for Families in New Jersey; NISH; Norris Adolescent Center in WI; Northeast Parent & Child Society in New York; Northern Virginia Family Service; Northwest Chapter of the Paralyzed Veterans of America; Northwest Children's Home, Inc.; Northwood Children's Services in Duluth, MN; Oak Grove Institute Foundation; Oakland Family Services; Olive Crest Treatment Centers; Organization of Specialist in Emergency Medicine; Outcomes, Inc. in Albuquerque, NM; PA Alliance for Children and Families in Hummelstown, PA.

Pacific Lodge Youth Services; Paget Foundation; Pain Care Coalition; Palmer Home for Children in Columbus, MS; Paralyzed Veterans of America; Patient Access Coalition; Patient Access to Responsible Care Alliance; Pediatric Orthopedic Society of North America; Pennsylvania Council of Children in Harrisburg, PA; Personal & Family Counseling Service of New Philadelphia, OH; Philadelphia Health Management Corporation in PA; Planned Parenthood Federation of America; Presbyterian Home for Children; Provident Counseling, Inc. in St. Louis, MO; Rehabilitation Engineering and Assistive Technology Society of North America; Religious Action Center of Reform Judaism; Research Institute for Independent Living; Riverbend Head Start & Family Service; Salem Children's Home; Salvation Army Family Services; San Mar, Inc. of Boonsboro, MD; Scarsdale Edgemont Family Counsel in NY; School Social Work Association of America.

Seattle Children's Home in WA; Seedco/Non-Profit Assistance; Service Net. Inc. in PA; Sheriffs Youth Programs of Minneapolis; Sipe's Orchard Home in Conover, NC; Sjogren's Syndrome Foundation; Society for Excellence in Eye care; Society for Women's Health Research; Society of Cardiovascular & Interventional Radiology; Society of Excellence in Eye Care; Society of Gynecologic Oncologists; Society of Maternal-Fetal Medicine; Southmountain Children's Homes of America; St. Anne Institute of Albany, NY; St. Colman's Home in Watervliet, NY; St. Joseph Children's Home; St. Joseph's Indian School in SD; St. Mary's Home Home of Beaverton, OR; St. Vincent's Services, Inc. of Brooklyn, NY; Starr Commonwealth; Sunbeam Family Services of Oklahoma City, OK; Sunny Ridge Family Center.

Tabor Children's Services, Inc. of Doylestown, PA; Teen Rancyh, Inc. Marlette, MI; Texas Association of Leaders in Children & Family; Texas Medical Association; The Arc of the United States; The Bradley Center in PA; The Center for Families, Inc.—Shreveport, LA; The Endocrine Society; The Family Center; The Hutton Settlement in WA; The Learning Disabilities of America; The Mechanicsburg Children's Hoe of Mechanicsburg, PA; The Mill; The Omaha Home for Boys in NE; The Organization of Specialists in Emergency Medicine; The Paget Foundation for Pagets's Disease of Bone and Related Disorders; The Pressley Ridge Schools in PA; The Village Family Service Center in Fargo, ND; The Woodlands in Newark, OH; Third Way Center; Thornwell Home and School for Children in SC; Title II Community AIDS National Network.

Tourette Syndrome; Tourette Syndrome Association; Treatment Access Expansion Project; Triangle Family Services in Raleigh, NC; Tulsa Boys' Home in Tulsa, OK; Turning Point Center; Uhlich Children's Home; United Cerebral Palsy Association; United Community & Family Service; United Methodist Children's Home; United Ostomy Association; United Methodists Children's Home; US Public Interest Research Group; Vera Lloyd Presbyterian Home & Family Services in AR; Vera Lloyd Presbyterian Home; Verdugo Mental Health Center; Village for Families & Children; Virginia Home for Boys; Webster-Cantrell Hall; Whaley Children's Center; Wisconsin Association of Family and Children; Wisconsin Paralyzed Veterans of America; Woodland Hills in Duluth, MN; Yellowstone Boys and Girls Ranch in Billings, MT; Youth Haven, Inc.; Youth Service Bureau; and YWCA of Northeast Louisiana.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the Bipartisan Patient Protection Act of 2001. Put simply, I believe this is a good bill.

If the Senate approves this bill, we could offer health care protections to all 190 million Americans in private health plans within a week. It's that simple.

Congress has a duty to pass a comprehensive Patients' Bill of Rights to make HMOs accountable to patients, and to ensure less HMO interference with medical decision making. We need to ensure, for example, access to emergency rooms, specialists, and clinical trials. Patients should be able to go to the emergency room closest to their home in the event of a medical emergency. This bill does just that.

Each day, 10,000 physicians see patients harmed because a health plan has refused services. Patients and doctors feel that getting quality care is a constant battle. It is time for this to stop. And the time is now.

Each day we wait to approve a comprehensive Patients' Bill of Rights, 35,000 patients are denied access to the speciality care they need to manage or diagnose their illness.

I want to read to you a heart-wrenching letter I received from a California mother who has had difficultly getting her health plan to approve medically necessary services for her disabled daughter.

I believe this letter really highlights the humane reasons Congress must enact a strong Patients' Bill of Rights this year. This mother writes:

My daughter is a total-care patient. She was in a terrible car accident approximately 14 years ago and sustained brain stem injuries and is a quadriplegic. I chose to keep her at home. Her licensed care coverage is to be 24-hour care. In the past two years, her insurance company has unilaterally cut back on her nursing care to 5.5 hours a day.

This is one of many unilateral decisions the insurance provider has made regarding her care—disregarding her doctor's and other medical providers' assessments.

I, as her mother and conservator, who is not trained in medical practices or care, am expected to cover the remainder of the 18.5 hours a day. This has caused me to quit my job, file bankruptcy, and most importantly, it has seriously affected my health.

I am a senior citizen and am not supposed to lift, however, because of the practices of the insurance company, I have no choice. I cannot tell you when I last had a full night's sleep in the past several years.

The insurance company not only cut back on her nursing care, they stopped approving her therapy which included physical, speech, and occupational.

I received a letter from her current insurance carrier stating that she was considered to be a normal employee and in August of 2001 all the aforementioned items would be stopped.

This is not based on my daughter's current doctor's orders nor her needs. This is not based on an assessment from an independent medical establishment or by an experienced, licensed nurse that was selected by the insurance company for a complete assessment which supported the necessity of 24-hour nursing care.

This decision is being made unilaterally by the insurance company officials. Is this what insurance companies can do to critically ill patients without any accountability or liability on their part?

I commend this mother for her commitment to providing her daughter with the best care available.

This letter highlights the importance of giving doctors the power to make medical decisions about coverage and care rather than the ''green eye shade'' of the insurance companies.

I strongly believe that doctors should be making the medical decisions. This

bill includes several provisions to help physicians determine what is medically necessary and to prevent insurance plans from defining medical necessity.

These provisions are necessary because doctor after doctor has told me their ''horror stories'' of how plans try to arm twist, coerce, countermand, interfere with and even deny treatments that they have determined are medically necessary and appropriate.

The bill prohibits plans from punishing providers for advising patients about their options for medical treatment.

The bill also establishes, as the standard for review, that decisions should be made based on the medical condition of the patient and valid, relevant scientific evidence and clinical evidence and expert opinion.

It also requires internal and external reviews of appeals of medical necessity to be made by physicians with expertise in the area of medicine being appealed.

It requires reviewers in the independent review process to be a physician or health care professional who is licensed and ''typically treats the condition, makes the diagnosis, or provides the type of treatment under review.''

On prescription drugs, the bill requires plans to make exceptions to restrictive drug formularies for medical necessity, if prescribed by the treating physician.

It is my hope that these provisions will give doctors and other providers the legal underpinnings they need to make the professional medical judgments they are trained to make in their effort to give patients the best care possible.

I also want to briefly speak to two other very important provisions included in this bill: First, this bill provides coverage to all 190 Americans in private health plans. The competing bill in the Senate (Frist-Breaux) excludes approximately 20 million Americans because they are enrolled in a self-insured State and local government health plans. It is important we pass a bill that provides protections to all Americans.

Second, I believe this bill offers a responsible approach to liability.

Today, patients have few opportunities for recourse against the health plans that harm them. This is wrong.

This bill gets rid of a health plan's special privileges. A health plan would bear responsibility only if it makes a medical decision and the patient dies or is harmed as a result.

Doctors and other health practitioners are already held accountable for their mistakes under State law. If a ''green eye-shade'' overrules a doctor's medical judgement and harms a patient, the plan too should be held responsible.

At the same time, this bill protects employers. If an employer does not make medical decisions, the employer can't be held liable. It is that simple.

This bill does not overturn or preempt existing State liability laws. It specifically exempts doctors and hospitals from new causes of action. These are reasonable provisions. In States like California that have strong patient protections there has not been an explosion of lawsuits.

In fact, since the inception of California's right-to-sue law in January 2001 and the unlimited damage it provides for, there has not been a single lawsuit filed.

Instead, HMOs appear to be deferring more to patients' requests for treatment, according to the first data to emerge from the State's HMO regulator.

California has the longest history in managed care and the highest number of insured people in HMOs nationwide. Over 70 percent of Californians are enrolled in either a commercial HMO or a preferred provider organization, PPO. Approximately 20 million non-elderly Californians have access to health insurance through their job or privately purchase coverage.

So for California, these protections are critical.

Due in part to the high penetration of managed care, California's health care system is on the verge of collapse. Resources are stretched to the limit and patients, as a result, are not getting the services they need.

For example, California's capitation rate, the rate paid to doctors for treatment, is one of the lowest in the Nation. The average capitation rate in California reached its peak in 1993 at $45 per month. Last year, the rate dropped to $29 (PriceWaterhouse Coopers).

These low reimbursement rates undoubtedly impact quality of care and access to services.

Many California hospitals and other health care providers have been forced to limit hours of operation and discontinue services. The burden to provide care is put on those that have remained open, and many of these facilities are now facing financial problems of their own.

I know that California's health care system is not unlike other systems across the country. The bottom line is that patients should not be the one's made to suffer at the hands of a failing health care system.

People pay monthly premiums. They expect their health insurance to be there when they need it. That is what insurance is. It insures against loss from an unforeseen illness or injury.

But with HMOs today, the certainty of good health care is being seriously eroded. Many people feel that every time they need care, it is a tremendous hassle.

The bottom line is that people feel they have to fight to get the quality care they have paid for. Americans are tired of jumping through hoops to get good care.

People should not have to fight for their health care. They pay for it out of their monthly paycheck. It should be there for them when they need it.

I would like to close with a very tragic story about a young, 16 year old girl from Irvine, California who did not get the care she needed from her HMO in a timely manner. I think her story provides a poignant summary of the problem with managed care providers. Unfortunately, her story does not have a happy ending.

Serenity Silen was diagnosed with acute myeloid leukemia, or AML, in late February 1998. She had gone to her HMO four times, to four different HMO doctors, since the beginning of 1998. Each time she complained of the exact same symptoms, all of which could indicate leukemia.

Over the course of the four visits, Serenity's condition was never diagnosed. Finally, in the middle of February 1998, Serenity was taken to the emergency room of an out-of-network hospital because her mother was so frustrated with the care at their HMO.

The emergency room doctor was the first doctor, in the five weeks since the symptoms arose, to order a complete blood count test. The blood count test indicated a dangerously high white blood cell count that was symptomatic of leukemia. With a much delayed diagnosis, Serenity's leukemia was now going to be much more difficult to treat.

Fed up with the HMO, Serenity's parents sought a second opinion from a highly recognized oncologist at an out-of-network hospital. Serenity was transferred to that hospital to be under the oncologist's care. After being at the new hospital only a few days, Serenity explained to her parents that she did not realize how much pain she was in until the new hospital helped to take it away. After 2½ months at the new hospital, Serenity died. The disease had not been diagnosed in time.

I urge my colleagues to support this bill. Support this bill for the children like Serenity in your State. The constituents who battle with their HMOs daily to get the quality care they need and deserve. Many of these patients are too sick to fight with their HMOs to get access to the services necessary to treat their illnesses. How many more lives are we going to have to lose to the HMO battle before Congress wises up and passes a Patients' Bill of Rights that protects the patient?

This bill has been a long time in the making. Let's get it done this session.

ADJOURNMENT OF THE TWO HOUSES OVER THE FOURTH OF JULY HOLIDAY

Mr. REID. Mr. President, I have a unanimous consent request that the Senate proceed to H. Con. Res. 176, the adjournment resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 176) providing for conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 176) was agreed to, as follows:

H. CON. RES. 176

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 28, 2001, or Friday, June 29, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, July 10, 2001, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, June 28, 2001, Friday, June 29, 2001, Saturday, June 30, 2001, Monday, July 2, 2001, Tuesday, July 3, 2001, Thursday, July 5, 2001, Friday, July 6, 2001, or Saturday, July 7, 2001, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 9, 2001, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. REID. Mr. President, for the edification of Members, the resolution allows the House to go out today or tomorrow and allows the Senate to go out any day up until July 7.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak for up to 5 minutes each.

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

HONORING NEW YORK FIREFIGHTERS—JOHN J. DOWNING, BRIAN FAHEY, AND HARRY FORD, WHO LOST THEIR LIVES IN THE LINE OF DUTY

Mrs. CLINTON. Mr. President, let me state for the RECORD that the request I am about to make has been cleared on the Republican side.

I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 117 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 117) honoring John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. CLINTON. Mr. President, I rise today to introduce a resolution honoring John J. Downing, Brian Fahey, and Harry Ford, who gave their lives this past Father's Day while protecting the lives of others. Together, these brave men left behind three widows and eight children whom we also honor today for their sacrifice.

On June 17, as a treacherous five-alarm fire raged at the Long Island General Supply Company in Queens, NY, without hesitation, as they have done countless times before, nearly 350 firefighters and numerous police officers responded to the call for help. Two civilians and dozens of firefighters and police officers were injured. And three courageous fathers lost their lives. It was the last time their children would be able to spend Father's Day with them.

John Downing was 40 years old, an 11-year veteran of the New York Fire Department when he responded to the five-alarm blaze. He was a valiant public servant who had been recognized for his bravery. John left behind his wife Anne, his 7-year-old daughter Joanne, and his three-year-old son Michael.

Brian Fahey, 46 years old, and a 14-year veteran of the department from East Rockaway, NY, was also a husband and father of three. His years of service to his community were made proud by his courage. He is survived by his wife Mary and their three sons: Brendan, 8; and twins, Patrick and James, 3½ years old.

Harry Ford, age 50, gave nearly three decades of service to the New York City Fire Department. During his exemplary career, he received nine bravery citations. He is survived by his wife Denise; his daughter Janna O'Brien, age 24; and two sons, Harry, 12, and Gerard, 10.

Mr. President, I paid a call on the two firehouses early Sunday morning who had lost these brave compatriots, and I spent time talking to the men who go to work every day not knowing what is going to be asked of them, who sometimes go for, thankfully, days, or weeks, or months, and even years without ever having to put themselves in danger. But when the call comes, they are ready. And whether it is a call to respond to an emergency need because of an illness, an accident, or a huge raging fire that is about to get out of control, they represent the very best we have in our society.

We live in a society that seems to be in perpetual search for heroes, whether in the form of sports figures or screen idols. But to find true heroes, sometimes we don't have to look so very far from home. We certainly don't have to look any farther than the brave men we are honoring today.

The unmistakable courage and the incalculable sacrifices that they and their families have made for the good of their neighbors and their community are the kinds of virtues and values that should be held up to our children and ourselves as something we should all aspire to.

Finally, in so honoring these men, we honor the hundreds of thousands of public safety officers across this country that, every single day, risk their lives and put them and their families at risk to keep us safe from harm. Their strong tradition of bravery and sacrifice keeps our communities safe and fills our hearts with pride for their selfless acts of courage for others.

I hope that next year when Father's Day comes around, the children who have lost their fathers in this fire and those who have lost fathers and mothers because they were serving us will know how grateful we are for their sacrifice. I hope all of my colleagues will join me in supporting this resolution.

I yield back the remainder of my time.

Mr. DODD. Mr. President, I rise in support of Senator CLINTON's resolution honoring the fallen firefighters of New York and to join with her in acknowledging the bravery and commitment of Harry Ford, Brian Fahey, and John Downing. These men were firefighters—firefighters who risked their lives and gave their lives to protect the public. These men died on Sunday, June 17th, while fighting a fire in Queens, New York. The price they paid on our behalf was as great a price as any citizen can pay. We owe these men our deepest appreciation and respect.

On Sunday, the 17th—Father's Day—Firefighters Ford, Fahey and Downing worked quickly to fight a fire in a local hardware store. Thirty minutes after leaving the fire station, responding to what they thought was a routine call, an explosion buried the men under a pile of rubble. Dozens of firefighters worked to rescue the men, but they could not be reached in time.

These men were husbands and fathers. Harry Ford leaves behind his

wife, Denise and two sons, Harry, age 12, and Gerard, age 10. Brian Fahey leaves us with his wife, Mary and three sons: Brendan, who is 8 years old, and 3-year-old twins, Patrick and James. John Downing is survived by his wife Anne, his daughter Joanne, age 7, and his son Michael, who is 3. My thoughts and prayers are with these families.

I am humbled by their devotion to public service. Their deaths represent the ultimate sacrifice a person can make for his or her fellow human beings. They died while fighting a fire and it is not hyperbole to say that they died while making America a safer place to live.

I am always saddened to realize that it takes a tragedy like this to bring attention to the needs of fire departments and firefighters nationwide. I hope that the memory of these three men will help Americans realize the impact of firefighters on our daily lives.

Firefighters are almost always the first in a community to respond to a call for help. They are on the scene of traffic accidents and construction accidents. When a natural or man-made calamity strikes—from hurricanes to school shootings to bombings—firefighters are there without fail, restoring order and saving lives.

Unfortunately, fire departments across the Nation struggle to find resources to help keep our communities safe. As the demands placed on fire departments have grown in volume and magnitude, the ability of local residents to support them has been put to a severe test. As a result, towns and cities throughout the country are struggling mightily to provide the fire departments with the resources they require.

For these reasons I have strongly supported helping localities meet their critical objectives. Communities need more firefighters and community firefighters need the resources to ensure that they have the training and equipment to protect themselves and the public.

Last year we passed an important piece of legislation called the Firefighter Investment and Response Enhancement Act which authorized the Federal Emergency Management Agency to provide grants to local firefighters so they could purchase the equipment they need. Congress appropriated $100 for the program last year and the FEMA has just completed the first grant competition under the program. The demand is extraordinary. FEMA received nearly $3 billion worth of grant applications—that's 30 times more in requests that is currently available.

No amount of funding can bring back Firefighters Ford, Fahey, and Downing. New fire trucks or better training programs or even more firefighters cannot even begin to compensate for the loss suffered by the people of Queens and the families of these brave men. For their lives, we are forever indebted. But for their cause, we can dedicate ourselves to help ensure that no firefighter ever enters a burning building without the best possible training and equipment.

So I stand here before you, Mr. President, and the members of this chamber to say that these men and their families shall not be forgotten. They have sacrificed their lives for us, and for this they deserve no less than the highest degree of honor and respect. We here today cannot compare our own deeds to those of Harry Ford, Brian Fahey, and John Downing, but we can bring honor to ourselves and justice to their memories by keeping them and the needs of the fire service in mind as we perform our own duties.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 117) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 117

Whereas on June 17, 2001, 350 firefighters and numerous police officers responded to a 911 call that sent them to Long Island General Supply Company in Queens, New York;

Whereas a fire and an explosion in a 2-story building had turned the 128-year-old, family-owned store into a heap of broken bricks, twisted metal, and shattered glass;

Whereas all those who responded to the scene served without reservation and with their personal safety on the line;

Whereas 2 civilians and dozens of firefighters were injured by the blaze, including firefighters Joseph Vosilla and Brendan Manning who were severely injured;

Whereas John J. Downing of Ladder Company 163, an 11-year veteran of the department and resident of Port Jefferson Station, and a husband and father of 2, lost his life in the fire;

Whereas Brian Fahey of Rescue Company 4, a 14-year veteran of the department and resident of East Rockaway, and a husband and father of 3, lost his life in the fire; and

Whereas Harry Ford of Rescue Company 4, a 27-year veteran of the department from Long Beach, and a husband and father of 3, lost his life in the fire: Now, therefore, be it

Resolved, That the Senate—

(1) honors John J. Downing, Brian Fahey, and Harry Ford, who lost their lives in the course of duty as firefighters, and recognizes them for their bravery and sacrifice;

(2) extends its deepest sympathies to the families of these 3 brave heroes; and

(3) pledges its support and to continue to work on behalf of all of the Nation's firefighters who risk their lives every day to ensure the safety of all Americans.

A CALL FOR ACTION

Mr. LEVIN. Mr. President, a new poll conducted by the Opinion Research Corporation International and released by the Brady Campaign to Prevent Gun Violence confirms once again that the American people support sensible gun safety legislation. Eighty-three percent of those polled said they support criminal background checks on all gun purchases at gun shows. Nearly four out of five respondents voiced support for preventing gun dealers from selling guns to anyone who has not passed a background check, even if it takes more than 3 days to complete the check. And more than 8 out of every 10 people polled believe that all guns should be sold with childproof safety locks.

The message here is clear. People are fed up with the reports of gun violence that dominate the front page and the evening news. America wants action.

The Brady Campaign's poll and countless other studies demonstrate our mandate. The incidents of gun violence that plague our neighborhoods and endanger our children confirm our moral obligation.

We should ignore neither. We cannot let another Congress go by without action. Let's close the loopholes in our gun laws and remember the 107th Congress as a time when we made America a safer place for our children and our grandchildren.

GENERAL ACCOUNTING OFFICE REPORT ON DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Mr. MCCONNELL. Mr. President, when the 105th Congress passed the Transportation Equity Act for the 21st Century, TEA–21, there was a vigorous and close debate about whether to convert the Disadvantaged Business Enterprise Program into a race neutral program helping all small disadvantaged businesses. It troubled many members of both Houses that we lacked basic information about the characteristics of DBEs and non-DBEs and about alleged discrimination in the transportation industry. Consequently, I introduced, with widespread bi-partisan support, an amendment to TEA–21, requiring the GAO to gather the information Congress was missing that is essential to understanding the DBE program. As Congressman SHUSTER, Chair of the House Committee on Transportation and Infrastructure and the floor manager for the transportation bill, emphasized during the House debate, the Act "also requires a GAO study that would examine whether there is continued evidence of discrimination against small business owned and controlled by socially and economically disadvantaged individuals. I believe such a study will lay the groundwork for future reform."

Three years later, the GAO has produced a comprehensive report on the questions Congress asked it to investigate. This objective, impartial report

entitled, ''Disadvantaged Business Enterprises: Critical Information is needed to Understand Program Impact,'' GAO Report GAO–01–586, June 2001, is highly significant to the continuing legislative and judicial debate over the DBE program. Professor George R. La Noue, one of the distinguished scholars in this field, has analyzed the GAO's report. He notes that the ''DBE program has been continuously subject to litigation during its almost two decades of existence.'' Professor La Noue concludes that ''the picture of the DBE program that emerges from the GAO report is one of essential information that is missing, or if available, does not support any finding of a national pattern of discrimination against DBEs.'' I am pleased to provide Professor La Noue's analysis of the GAO report, and I request that it be printed in the RECORD.

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

AN ANALYSIS OF ''DISADVANTAGED BUSINESS ENTERPRISES: CRITICAL INFORMATION IS NEEDED TO UNDERSTAND PROGRAM IMPACT''

GAO Report [GAO–01–586 June 2001]

(By George R. La Noue, Professor of Political Science)

DIRECTOR, PROJECT ON CIVIL RIGHTS AND PUBLIC CONTRACTS, UNIVERSITY OF MARYLAND, BALTIMORE COUNTY

During the 1998 consideration of the Transportation Equity Act for the 21st Century (TEA–21), there was extensive debate in both Houses about whether to make the DBE program race-neutral. In the end, a compromise was reached to retain a race conscious DBE program, while requiring the General Accounting Office to make a three year study of the characteristics of the DBEs and non-DBEs participating in federal transportation programs and to gather existing evidence of discrimination against DBEs. Such information was intended to provide a solid basis of facts for courts, legislators, and others grappling with the complex issues of the constitutionality of the DBE program.

The GAO study now has been released and its conclusions are highly significant. GAO performed its three year study by obtaining data from 52 state DOT recipients (including the District of Columbia and Puerto Rico) and 31 of the largest (accounting for two-thirds of transit grant funds obligated in 1999) transportation districts in the country. In addition GAO staff interviewed representatives of interest groups on both sides of the DBE question and analyzed the results of 14 transportation related disparity studies.

Following are GAO's major conclusions.

1. DISCRIMINATION COMPLAINTS

GAO conducted a survey of discrimination complaints received by USDOT and recipients. GAO found that, while USDOT sometimes receives written complaints of discrimination, the agency does not compile or analyze the information in those complaints. GAO could not supply information on the number of complaints filed, investigations launched, or their outcomes. (p. 33) GAO also asked state and local transit recipients about complaints they received and they had better data. During 1999 and 2000, 81 percent of the recipients had no complaints, while a total of 31 complaints were received by the other recipients. Of these, 29 were investigated and findings of discrimination were made only 4 times across the nation .

The report concluded: Other factors may also limit the ability of DBEs to compete for USDOT-state assisted contracts. The majority of states and transit districts we surveyed had not conducted any kind of analysis to identify these factors. Using anecdotal information, we identified a number of factors, or barriers, such as a lack of working capital and limited access to bonding, that may limit DBEs' ability to compete for contracts. However, there was little agreement among the officials we contacted on whether these factors were attributable to discrimination. (p.7)

In fact GAO reported there were few if any studies by government agencies or industry groups regarding barriers to DBE contracting. ''USDOT officials, however, stated that they believe contract bundling is one of the largest barriers for DBEs in competing for transportation contracts.'' (p. 35) That, of course, is not a problem caused by discrimination.

2. DISPARITY STUDIES

GAO also reviewed 14 transportation-specific disparity studies completed between 1996 and 2000. GAO examined these studies because they might be a source of evidence about discrimination against DBEs and because USDOT permits recipients to use disparity studies to set annual goals and to determine the level of discrimination these goals purportedly are remedying. GAO found that about 30 percent of the recipients surveyed used disparity studies to set their fy 2000 goals. (p. 29).

GAO found that: the limited data used to calculate disparities, compounded by the methodological weaknesses, create uncertainties about the studies findings. . . . While not all studies suffered from every problem, each suffered enough problems to make its findings questionable. We recognize there are difficulties inherent in conducting disparity studies and that such limitations are common to social science research; however, the studies we reviewed did not sufficiently address such problems or disclose their limitations. (p.29)

GAO then detailed disparity study problems, particularly in calculating DBE availability. These problems are important not only because they undermine the validity of the disparity studies involved, but because these same problems exist in the regulations USDOT issued regarding annual goal setting. USDOT as a practical matter permits recipients to use a wide variety of sources to measure availability on which goals are then based.

GAO made other specific criticisms of the studies. For example, the studies did not have information on firm qualifications or capacities; they failed to analyze both the dollars and contracts awarded and sometimes did not have subcontracting data. This was important: Because MBE/WBEs are more likely to be awarded subcontracts than prime contracts, MBEs/WBEs may appear to be underutilized when the focus remains on prime contractor data. Furthermore, although some studies did include calculations based on the number of contracts, all but two based their determination of disparities on only the dollar amounts of the contracts. Because MBEs/WBEs tend to be smaller than non-MBEs/WBEs, they often are unable to perform on larger contracts. Therefore, it would appear that they were awarded a disproportionately smaller amount of contract dollars. (p. 32) (see data on contracting awards on p. 51)

GAO's conclusion here is significant because the USDOT regulations measure utilization only in dollars, not contracts, and annual goals are set based on total dollars rather than on the DBE share of subcontracting dollars.

Finally GAO notes that although USDOT advised recipients that disparity studies should be ''reliable,'' USDOT provided no guidance on what would be a reliable study. GAO concluded that: USDOT's guidance does not, for example, caution against using studies that contain the types of data and methodological problems that we identified above. Without explicit guidance on what makes a disparity study reliable, states and transit authorities risk using studies that may not provide accurate information in setting DBE goals. (p. 32)

GAO's finding about the unreliability of disparity studies is consistent with the findings of every court that has examined the merits of such studies after discovery and trial.

3. DISCONTINUING PROGRAMS

One of the arguments used in the TEA–21 debates and defendant's trial briefs is the assertion, often anecdotal, that without goals, DBE participation would decline precipitously. The difficulty with that assertion, even if true, is that the decline in DBE participation may be the result of previous overutilization caused by goals set too high or because when a program is struck down DBEs may have little incentive to seek or maintain certification.

But is the basic assertion true? It turned out that 10 of 12 recipients with discontinued programs did not know what the DBE participation result was. For instance, although Michigan was cited by DBE proponents in the TEA–21 debate as an example of DBE utilization decline after Michigan Road Builders Assn. v. Millikin (1987) struck down the state highway MBE program, GAO reports: Michigan could not provide us with minority and women owned business participation data in state highway contracting for the years immediately before and after it discontinued its program. Furthermore, Michigan officials stated that the analysis showing the decline that is often cited was a one-time-only analysis and that analysis is no longer available. Consequently we can not verify the number cited during the debate (p.37)

4. MISSING INFORMATION

Much of the above criticisms GAO cast in terms of a lack of information, but there were other key items missing as well. GAO had planned to survey all transit authorities receiving federal funds, but FTA does not have a complete list. (p. 74) When the 83 state and transit recipients were surveyed, only 40% or less of the respondents could report the gross revenues of the DBEs that won contracts. Less than 25% of the respondents could report the gross revenues of the DBEs that did not win contracts. (pp. 52–55) Only about a third of the agencies could report data on the personal net worth of DBE owners, although TEA–21 regulations require that such owners net worth not exceed $750,000.

Only a handful of respondents could report data on the gross revenues or owner net worth characteristics of non-DBE firms. (p. 64) While 79 respondents could report data about subcontracts awarded DBEs, only 28 respondents could report similar data for non-DBEs. That means that most respondents did not regard comparing DBE and non-DBE subcontractor utilization relevant in setting goals or in determining whether discrimination exists.

Nor are respondents acquiring relevant information: 98.8% have not conducted any study determining if awarding prime or sub contracts to DBEs affects contract costs; 67.5% no study on discrimination against DBE firms; 84.2% no study of discrimination against DBEs by financial credit, insurance or bond markets; 79.5% no study of factors making it difficult for DBEs to compete; and 92.8% no study on the impact of the DBE program on competition and the creation of jobs. (pp. 66–68). Only 26.5% of the respondents have developed and implemented use of a bidders list, although the regulations require such.

The DBE program has been continuously subject to litigation during its almost two decades of existence. Overall, the picture of the DBE program that emerges from the GAO report is one of essential information that is missing, or if available, does not support any finding of a national pattern of discrimination against DBEs.

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 April 18, 1998 in New York City. A man who used anti-gay epithets allegedly slashed a gay man in the face with a knife. Eric Rodriguez, 22, was charged with attempted murder, assault, and criminal possession of a weapon.

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.

RAILROAD CROSSING DELAY REDUCTION ACT

Mr. DURBIN. Mr. President, earlier this month I introduced the Railroad Crossing Delay Reduction Act, S. 1015, with my colleagues, Senators LEVIN and STABENOW.

This legislation would accelerate efforts at the U.S. Department of Transportation to address the issue of rail safety by requiring the Secretary of Transportation to issue specific regulations regarding trains that block automobile traffic at railroad crossings. Currently, there are no Federal limits on how long trains can block crossings. The Railroad Crossing Delay Reduction Act would simply minimize automobile traffic delay caused by trains blocking traffic at railroad grade crossings.

In northeastern Illinois, there are frequent blockages at rail crossings. These blocked crossings prevent emergency vehicles, such as fire trucks, police cars, ambulances, and other related vehicles from getting to their destinations during the times of need. This is a serious problem and one I hope to address by passage of this important legislation.

Blocked rail crossings also delay drivers by preventing them from getting to their destinations. Motorists, knowing they will have to wait for a train to move at blocked crossings, sometimes try to beat the train or ignore signals completely. This is a threat to public safety, and one that must stop. Motorists must act responsibly, but we can reduce the temptation by reducing delays.

Trains stopped for long periods of time also tempt pedestrians to cross between the train cars. I've heard from local mayors in my State that children, in order to get home from school, cross between the rail cars. This is a terrible invitation to tragedy.

Trains blocking crossings cause traffic problems, congestion, and delay. These issues are very real. They are serious. And more importantly, they are a threat to public safety. To address these problems, I've introduced with my colleagues the Railroad Crossing Delay Reduction Act. I'm hopeful this legislation will provide for a safer Illinois and a safer Nation. I urge my colleagues to join the effort to reduce blocked rail-grade crossings by cosponsoring and supporting S. 1015.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 27, 2001, the Federal debt stood at $5,655,167,264,852.88, Five trillion, six hundred fifty-five billion, one hundred sixty-seven million, two hundred sixty-four thousand, eight hundred fifty-two dollars and eighty-eight cents.

One year ago, June 27, 2000, the Federal debt stood at $5,650,720,000,000, Five trillion, six hundred fifty billion, seven hundred twenty million.

Five years ago, June 27, 1996, the Federal debt stood at $5,118,104,000,000, Five trillion, one hundred eighteen billion, one hundred four million.

Ten years ago, June 27, 1991, the Federal debt stood at $3,502,028,000,000, Three trillion, five hundred two billion, twenty-eight million.

Fifteen years ago, June 27, 1986, the Federal debt stood at $2,040,977,000,000, Two trillion, forty billion, nine hundred seventy-seven million, which reflects a debt increase of more than $3.5 trillion, $3,614,190,264,852.88, Three trillion, six hundred fourteen billion, one hundred ninety million, two hundred sixty-four thousand, eight hundred fifty-two dollars and eighty-eight cents during the past 15 years.

ADDITIONAL STATEMENTS

CONGRATULATING JAMES W. AND JESSE ANN DAVIS

• Mr. ALLEN. Mr. President, I rise today to congratulate two residents of Ashburn, Virginia, on the birth of one of my newest constituents and a fine young man, James Michael Davis. James Michael was born on March 20, 2001, weighing 6 pounds and 10 ounces, and is the proud son of James W. Davis, a member of the U.S. Capitol K–9 Police Force, and Jesse Ann Davis. He is the grandson of Edith Louise Davis and the late James Carl Davis, and Stella Canchola and the late Raymond Canchola.

James Michael has entered a world of unlimited opportunity and possibilities. His parents and grandparents will help instill virtues of independence, self-reliance, perseverance and determination, all of which will serve him well along the road of life.

I want to extend my best wishes to James Michael for many years of health and happiness.•

IN RECOGNITION OF DR. RICHARD W. MCDOWELL

• Mr. LEVIN. Mr. President, I am delighted to speak today to acknowledge a leader, from my home State of Michigan, who has dedicated his life to serving the citizens in Michigan, Dr. Richard W. McDowell. Today, many people will gather to pay tribute to Dr. McDowell for his service as President of Schoolcraft College, in Livonia, MI, for the past twenty years.

Dr. McDowell has dedicated his life, both professionally and personally, to the service of his community. Dr. McDowell has served capably and honorably as the President of Schoolcraft College during a period of incredible growth for this institution. He has presided over programs and projects that have reshaped the campus, and enhanced its ability to meet the needs of students at Schoolcraft College.

During his tenure as President, Dr. McDowell has presided over the construction of numerous structures including additions to the Campus Center, the Child Care Center and the student center that bears his name. In addition to enhancing the physical facilities, he has greatly enhanced the economic structure of the campus by forming the Schoolcraft Development Authority, and by expanding the endowment of the college. These efforts will secure the ability of the school to maintain a world-class campus while providing students with access to an affordable education.

In addition to these activities, Dr. McDowell is a leader in his profession and in numerous civic institutions. His love of academia and education translated into his desire to serve the educational community writ large. Dr.

McDowell has served as President of the Michigan Community College Association, and he has been a member of the Michigan Educational Trust Board, the National Advisory Panel for the Community College Program at the University of Michigan, the American Association of Community Colleges and the North Central Association of Colleges and Schools.

He has further assisted his community by serving on the board of Wayne County Private Industry Corporation, St. Mary Mercy Hospital and the City of Livonia Ethics Board. This selfless leadership has been recognized by many organizations, including his alma maters—Indiana University of Pennsylvania and Purdue University. Both of these institutions awarded him their distinguished alumni awards. In addition, he was selected one of the top fifty community college presidents in the United States by the Community College Leadership Program at the University of Texas at Austin.

I hope my Senate colleagues will join me in saluting Dr. McDowell for his career of public service, particularly the commitment to education which he has exhibited for the last two decades.●

CONCRETE CANOE COMPETITION

● Mr. SESSIONS. Mr. President, I join with my colleagues in support of the Concrete Canoe Competition.

Civil Engineers design the backbone of our Nation's infrastructure. By designing, building, and maintaining our infrastructure, these engineers have quietly helped to shape the history of our Nation and its communities. Civil Engineers contribute daily to our standard of living through their designing, building, and maintaining our transportation, clean water, and power generation systems.

A great example of civil engineering ingenuity is manifested through the National Concrete Canoe Competition. The Concrete Canoe Competition provides college and university students an opportunity to use the engineering principles learned in the classroom, and apply them in a competitive environment where they further learn important team and project management skills.

I am very pleased to announce that on June 16, 2001, the University of Alabama at Huntsville won an unprecedented fifth national Championship in the Concrete Canoe Competition.●

RETIREMENT OF JOHN C. HOY AS PRESIDENT OF THE NEW ENGLAND BOARD OF HIGHER EDUCATION

● Mr. KENNEDY. Mr. President, it is an honor today to recognize the outstanding accomplishments of John C. Hoy, president of the New England Board of Higher Education, who is retiring this month. Mr. Hoy has dedicated the past twenty-three years to serving the higher education institutions of New England, and his leadership will be greatly missed.

Since he became president of the Board in 1978, Mr. Hoy has led the effort to provide an accessible and affordable education for every New Englander. To accomplish this goal, he established reforms in his own organization, and he also involved individuals and businesses throughout New England in effective partnerships that served students and institutions alike.

Among his primary achievements was the publication of numerous important books, including studies on the relationship between higher education and economic well-being in New England, the links between U.S. competitiveness and international aspects of higher education, and the effects of legal education on the New England economy.

In addition, John Hoy offered much-needed support to minority communities. He encouraged greater participation by Blacks and Hispanics in higher education, and he worked effectively to increase the number of ethnic minorities completing PhD programs. He also created a scholarship program for Black South African students at South Africa's open universities under apartheid.

John Hoy also cared deeply about the way technology was changing higher education, in New England and around the country. Under his initiative, the Board explored the promise of biotech industries and manufacturing in New England, and worked to improve technical education, with the help of both professional educators and the private sector. In addition, he worked with other regional boards of higher education to coordinate telecommunications among higher educational institutions.

John C. Hoy deserves great credit for all he has done to enhance higher education in New England. His accomplishments are deeply appreciated by all of us who know him, and I welcome this opportunity to wish him a long and happy retirement.●

HONORING DR. BERNARD MEYERS

● Mr. CRAPO. Mr. President, I rise today to say thank you to Dr. Bernard ''Bernie'' Meyers, President and General Manager of Bechtel BWXT Idaho, LLC (BBWI). BBWI manages the Idaho National Engineering and Environmental Laboratory (INEEL) for the United States Department of Energy.

The INEEL is the third largest employer in the state of Idaho and the largest employer in my hometown of Idaho Falls. For the past 2 years Bernie's professional and personal skills have helped lead the INEEL in its mission to be an enduring national resource that delivers science and engineered solutions to the world's environmental, energy and security challenges.

On August 1, 2001, Bernie will retire as President of BBWI and assume additional duties on behalf of Bechtel. In addition to his duties as President of BBWI, Bernie is also Senior Vice President in the 30,000 employee worldwide Bechtel organization.

Bernie's 39-year professional career includes 26 years spent with Bechtel, where he has risen through the nuclear engineering ranks while serving as an Engineer, Supervisor, Project Manager, Vice President, and finally as Senior Vice President.

Bernie's stewardship of Bechtel BWXT Idaho represents a strong demonstration of Bechtel's commitment to provide customer satisfaction and operational excellence for the eastern Idaho community. In addition to being a Senior Vice President, Bernie has in the past directed major Bechtel companies, managed North American operations, headed up the firm's Engineering and Construction operations, managed Bechtel's nuclear business line and served as an ''in-the-trenches'' project manage for some $30 billion worth of nuclear power jobs.

During that same time, Bernie gained INEEL-applicable experience in integrating safety through diverse workforces and in serving as a leader in nuclear technologies and nuclear operations. Over the years, he has managed large, complex and highly technical entities; overseen research and development organizations, and helped expand new and existing business lines into both national and international markets. He also has integrated technical, management and business systems across multiple offices, companies, sites, and disciplines.

Bernie is a Fellow in the American Society of Civil Engineers and the American Concrete Institute, and has authored a textbook, as well as more than 60 professional papers. He holds a master's degree in civil engineering from the University of Missouri and a doctor's degree in civil engineering from Cornell University.

During his time in Idaho, Bernie Meyers has provided sound thinking, decisive leadership and an intelligent vision for the future of the INEEL. He has provided honest and frequent communications about INEEL activities with Idaho's Congressional delegation, Idaho elected officials, key stakeholders, business and community leaders and the site's employees.

Under Bernie leadership, BBWI has proven to be a solid corporate neighbor throughout the state of Idaho. His advocacy for science education has helped to firmly establish the JASON Science Education program in the state, creating an awareness of science

and technology careers for Idaho's elementary and secondary school students. His support of art, cultural and civic causes have contributed to the financial well being of many of organizations in Idaho.

On behalf of the people of Idaho, I want to say thank you to Bernie Meyers for a job well done. I want to wish Bernie and his wife Rita all the best as they tackle new challenges in the years ahead.●

WE THE PEOPLE COMPETITION

● Mr. MILLER. Mr. President, I would like to congratulate the following students for their outstanding performance in the national finals of the ''We the People . . . The Citizen and the Constitution'' contest in Washington, D.C. on April 21–23, 2001.

Joey Angel, David Connor, Darrell Davis, Eric Elloie, Jesse Gelbaum, Lindsey Green, Kyle Hale, Matthew Hall, Lisa Jones, David Lee, Jennie Long, Greer Pasmanick, Benjamin Riddick, Emily Rubinson, Matthew Snyder, Sanjay Tamhane, Jordan Tritt, and Scott Visser.

The leaders of this exceptional group of students are: Celeste Boemker, Teacher, Parker Davis, State Coordinator, and John Carr, District Coordinator.●

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 where were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING FOR FISCAL YEAR 2000—MESSAGE FROM THE PRESIDENT—PM 32

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 Commerce, Science and Transportation.

To the Congress of the United States:

In accordance with the Public Broadcasting Act of 1967, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 2000.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 28, 2001.*

REPORT ON THE COMPREHENSIVE NATIONAL ENERGY POLICY DATED JUNE 2001—MESSAGE FROM THE PRESIDENT—PM 33

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 Energy and Natural Resources.

To the Congress of the United States:

One of the first actions I took when I became President in January was to create the National Energy Policy Development Group to examine America's energy needs and to develop a policy to put our Nation's energy future on sound footing.

I am hereby transmitting to the Congress proposals contained in the National Energy Policy report that require legislative action. In conjunction with executive actions that my Administration is already undertaking, these legislative initiatives will help address the underlying causes of the energy challenges that Americans face now and in the years to come. Energy has enormous implications for our economy, our environment, and our national security. We cannot let another year go by without addressing these issues together in a comprehensive and balanced package.

These important legislative initiatives, combined with regulatory and administrative actions, comprise a comprehensive and forward-looking plan that utilizes 21st century technology to allow us to promote conservation and diversify our energy supply. These actions will increase the quality of life of Americans by providing reliable energy and protecting the environment.

Our policy will modernize and increase conservation by ensuring that energy is used as efficiently as possible. In addition, the National Energy Policy will modernize and expand our energy infrastructure, creating a new high-tech energy delivery network that increases the reliability of our energy supply. Further, it will diversify our energy supply by encouraging renewable and alternative sources of energy as well as the latest technologies to increase environmentally friendly exploration and production of domestic energy resources.

Importantly, our energy policy improves and accelerates environmental protection. By utilizing the latest in pollution control technologies to cut harmful emissions we can integrate our desire for a cleaner environment and a sufficient supply of energy for the future. We will also strengthen America's energy security. We will do so by reducing our dependence on foreign sources of oil, and by protecting low-income Americans from soaring energy prices and supply shortages through programs like the Low Income Housing Energy Assistance Program.

My Administration stands ready to work with the Congress to enact comprehensive energy legislation this year.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 28, 2001.*

REPORT ON THE EMERGENCY REGARDING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT—PM 34

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 Development.

To The Congress of the United States:

Enclosed is a report to the Congress on Executive Order 12938, as required by section 204 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)).

GEORGE W. BUSH.
THE WHITE HOUSE, *June 28, 2001.*

MESSAGES FROM THE HOUSE

At 10:21 a.m., message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 691. An act to extend the authorization of funding for child passenger protection education grants through fiscal year 2003.

H.R. 2213. An act to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 176. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

At 5:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2311. An act making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

The message also announced that pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431), as amended by Public Law 106–55, and upon the recommendation of the Minority Leaders, the Speaker appoints the following members on the pat of the House of Representatives to the Commission on

International Religious Freedom to fill the existing vacancies thereon, for terms to expire on May 14, 2003: Ms. Leila Sadat of St. Louis, Missouri and Ms. Felice Gaer of Paramus, New Jersey.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 691. An act to extend the authorization of funding for child passenger protection education grants through fiscal year 2003; to the Committee on Commerce, Science, and Transportation.

H.R. 2133. An act to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education; to the Committee on the Judiciary.

H.R. 2311. An act making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 28, 2001, he had presented to the President of the United States the following enrolled bill:

S. 657. An act to authorize funding for the National 4–H Program Centennial Initiative.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–123. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to the Interstate highway system; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 106

Whereas, safety rest areas located on the rights of way of the Interstate highway system provide necessary services for Louisiana motorists, as well as visitors to Louisiana; and

Whereas, there are currently thirty-four rest areas along interstate highways in Louisiana; and

Whereas, the annual cost of upkeep and maintenance of these rest areas is approximately three and one-half million dollars; and

Whereas, the state is required by federal law to maintain these rest areas; and

Whereas, the Louisiana Department of Transportation and Development has scheduled approximately fifteen of these rest areas for closure; and

Whereas, these rest areas scheduled for closure could remain open if private entities were charged with the responsibility of maintenance and upkeep; and

Whereas, Federal law currently prohibits privatization of safety rest areas located on the rights of way of the Interstate highway system. Therefore be it

Resolved, That the Legislature of Louisiana memoralizes the Congress of the United States to allow states to privatize safety rest areas located on the rights of way of the Interstate highway system. Be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. LEVIN. Mr. President, for the Committee on Armed Services.

The following named officers for appointment in the United States Air Force to the grade indicted under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Dale W. Meyerrose, 0000
Brig. Gen. Wilbert D. Pearson Jr., 0000

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Rex W. Tanberg Jr., 0000

The following named officers for appointment in the United States Army to the grade indicted under assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John A. Van Alstyne, 0000

The following named officers for appointment in the Reserve of the Army to the grade indicted under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. James P. Collins, 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicted under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Edward L. Correa Jr., 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James C. Riley, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. William S. Wallace, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Benjamin S. Griffin, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Leon J. LaPorte, 0000

The following named officer for appointment as Chief of the Bureau of Medicine and Surgery and Surgeon General and for appointment to grade indicted under title 10, U.S.C., sections 601 and 5137:

To be vice admiral

Rear Adm. Michael L. Cowan, 0000

The following named officer for appointment in the United States Navy to the grade indicted while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Patricia A. Tracey, 0000

The following named officer for appointment in the United States Marine Corps to the grade indicted while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Maj. Gen. Edward Hanlon Jr., 0000

(The above nominations were reported with the commendation that they be confirmed.)

Mr. LEVIN. Mr. President, for the Committee on Armed Services, I report favorably the following nomination lists which were printed in the RECORDS of the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nominations beginning STEVEN L. ADAMS and ending JANNETTE YOUNG, which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Army nominations beginning KEITH S. * ALBERTSON and ending ROBERT K. ZUEHLKE, which nominations were received by the Senate and appeared in the Congressional Record on January 3, 2001.

Army nominations beginning ERIC D. * ADAMS and ending DAVID S. ZUMBRO, which nominations were received by the Senate and appeared in the Congressional Record on May 21, 2001.

Army nominations beginning GREGGORY R. CLUFF and ending STEVEN W. VINSON, which nominations were received by the Senate and appeared in the Congressional Record on May 21, 2001.

Army nominations beginning GILL P. BECK and ending MARGO D. SHERIDAN, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2001.

Army nominations beginning CYNTHIA J. ABBADINI and ending THOMAS R. * YARBER, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2001.

Army nominations beginning JAMES E. GELETA and ending GARY S. OWENS, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Army nominations beginning FLOYD E. BELL JR. and ending STEVEN N. WICKSTROM, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Army nominations beginning ROBERT E. ELLIOTT and ending PETER G. SMITH, which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Army nominations beginning BRUCE M. BENNETT and ending GRANT E. ZACHARY

JR., which nominations were received by the Senate and appeared in the Congressional Record on June 18, 2001.

Navy nomination of Charlie C. Biles, which was received by Senate and appeared in the Congressional Record on May 21, 2001.

Navy nominations beginning JAMES W. ADKISSON III and ending MIKE ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record on May 21, 2001.

Navy nominations of William J. Diehl, which was received by the Senate and appeared in the Congressional Record on June 5, 2001.

Navy nominations of Christopher M. Rodrigues, which was received by the Senate and appeared in the Congressional Record on June 12, 2001.

Navy nominations beginning ROBERT T. BANKS and ending CARL ZEIGLER, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

Marine Corps nominations of Donald E. Gray Jr., which was received by the Senate and appeared in the Congressional Record on June 12, 2001.

Marine Corps nominations beginning JESSICA L. ACOSTA and ending JOSEPH J. ZWILLER, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 2001.

By Mr. INOUYE for the Committee on Indian Affairs.

Neal A. McCaleb, of Oklahoma, to be an Assistant Secretary of the Interior.

(The above nomination was reported with the recommendation that it be confirmed subject to the nominee's commitment to respond to the requests to appear and testify before any duly constituted committee on the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1118. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to identify certain routes in New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. COCHRAN, Mrs. CARNAHAN, Ms. SNOWE, and Mr. JOHNSON):

S. 1119. A bill to require the Secretary of Defense to carry out a study of the extent to the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study of Congress, and for other purposes; to the Committee on Armed Services.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):

S. 1120. A bill to amend the Foreign Assistance Act of 1961 to increase the authorization of appropriations for fiscal year 2002, and to authorize appropriations for fiscal year 2003, to combat HIV and AIDS, and for other purposes; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 1121. A bill to suspend temporarily the duty on certain R-core transformers; to the Committee on Finance.

By Mr. TORRICELLI:

S. 1122. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit against tax with respect to education and training of developmentally disabled children; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. CRAIG, and Mr. KOHL):

S. 1123. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THOMPSON:

S. 1124. A bill to amend section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide for a user fee to cover the cost of customs inspections at express courier facilities; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. AKAKA, Mr. ALLARD, Mr. BAYH, Mr. BINGAMAN, Mr. CLELAND, Mr. COCHRAN, Mr. EDWARDS, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. HELMS, Mr. INHOFE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LEAHY, Mr. LEVIN, Mr. REED, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Mr. SPECTER, Mr. TORRICELLI, and Mr. WYDEN):

S. 1125. A bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BROWNBACK (for himself and Mr. ENZI):

S. 1126. A bill to facilitate the deployment of broadband telecommunications services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK (for himself and Mr. ENZI):

S. 1127. A bill to stimulate the deployment of advanced telecommunications services in rural areas, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON:

S. 1128. A bill to provide grants for FHA-insured hospitals; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER:

S. 1129. A bill to increase the rate of pay for certain offices and positions within the executive and judicial branches of the Government, respectively, and for other purposes; to the Committee on Governmental Affairs.

By Mr. CRAIG (for himself, Mrs. FEINSTEIN, and Mr. CORZINE):

S. 1130. A bill to require the Secretary of Energy to develop a plan for a magnetic fusion burning plasma experiment for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY:

S. 1131. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen, oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new sources review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

By Mr. CRAPO:

S. 1132. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER (for herself, Mrs. CARNAHAN, and Mr. BOND):

S. 1133. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington National Airport for certain communities in case of airline bankruptcy; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself and Mr. HATCH):

S. 1134. A bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. CHAFEE, Mr. CONRAD, Mrs. LINCOLN, Mr. MILLER, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. KERRY, and Mr. CARPER):

S. 1135. A bill to amend title XVIII of the Social Security Act to provide comprehensive reform of the medicare program, including the provision of coverage of outpatient prescription drugs under such program; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. BAUCUS, Mr. BAYH, Mr . CLELAND, Mr. CORZINE, Mr. DODD, Mrs. FEINSTEIN, Mr. REID, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. THOMPSON, and Mr. WYDEN):

S. 1136. A bill to provide for mass transportation in certain Federally owned or managed areas that are open to the general public; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 1137. A bill to direct the Secretary of the Army to convey the remaining water supply storage allocation in Rathbun Lake, Iowa, to the Rathbun Regional Water Association; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 155

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 155, a bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians.

S. 212

At the request of Mr. CAMPBELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 212, a bill to amend the Indian Health Care Improvement Act to revise and extend such Act.

S. 280

At the request of Mr. JOHNSON, the name of the Senator from Michigan

(Mr. LEVIN) was added as a cosponsor of S. 280, a bill to amend the Agriculture Marketing Act of 1946 to require retailers of beef, lamb, pork, and perishable agricultural commodities to inform consumers, at the final point of sale to consumers, of the country of origin of the commodities.

S. 592

At the request of Mr. SANTORUM, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 592, a bill to amend the Internal Revenue Code of 1986 to create Individual Development Accounts, and for other purposes.

S. 634

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 634, a bill to amend section 2007 of the Social Security Act to provide grant funding for additional Enterprise Communities, and for other purposes.

S. 661

At the request of Mr. THOMPSON, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 661, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel excise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 677

At the request of Mr. HATCH, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 775

At the request of Mrs. LINCOLN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 775, a bill to amend title XVIII of the Social Security Act to permit expansion of medical residency training programs in geriatric medicine and to provide for reimbursement of care coordination and assessment services provided under the medicare program.

S. 778

At the request of Mr. HAGEL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 778, a bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings.

S. 814

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 814, a bill to establish the Child Care Provider Retention and Development Grant Program and the Child Care Provider Scholarship Program.

S. 818

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 818, a bill to amend the Internal Revenue Code of 1986 to provide a long-term capital gains exclusion for individuals, and to reduce the holding period for long-term capital gain treatment to 6 months, and for other purposes.

S. 913

At the request of Ms. SNOWE, the names of the Senator from Delaware (Mr. CARPER), the Senator from Maryland (Mr. SARBANES), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 940

At the request of Mr. DODD, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 940, a bill to leave no child behind.

S. 992

At the request of Mr. NICKLES, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 992, a bill to amend the Internal Revenue Code of 1986 to repeal the provision taxing policy holder dividends of mutual life insurance companies and to repeal the policyholders surplus account provisions.

S. 1032

At the request of Mr. FRIST, the names of the Senator from Utah (Mr. HATCH) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1032, a bill to expand assistance to countries seriously affected by HIV/AIDS, malaria, and tuberculosis.

S. 1037

At the request of Mrs. HUTCHISON, the names of the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1037, a bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes.

S. 1038

At the request of Mr. JEFFORDS, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 1038, a bill to amend the Internal Revenue Code of 1986 to improve access to tax-exempt debt for small nonprofit health care and educational institutions.

S. 1075

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1075, a bill to extend and modify the Drug-Free Communities Support Program, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

S. 1087

At the request of Mr. CONRAD, the names of the Senator from Texas (Mr. GRAMM) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1087, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period of the depreciation of certain leasehold improvements.

S. RES. 71

At the request of Mr. HARKIN, the names of the Senator from Florida (Mr. GRAHAM), the Senator from Florida (Mr. NELSON), and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. RES. 99

At the request of Mr. CAMPBELL, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from New Jersey (Mr. CORZINE), the Senator from North Dakota (Mr. DORGAN), the Senator from Illinois (Mr. FITZGERALD), and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. Res. 99, a resolution supporting the goals and ideals of the Olympics.

S. CON. RES. 45

At the request of Mr. FITZGERALD, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

S. CON. RES. 52

At the request of Mr. CORZINE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. Con. Res. 52, a concurrent resolution expressing the sense of Congress that reducing crime in public housing should be a priority, and that the successful Public Housing Drug Elimination Program should be fully funded.

AMENDMENT NO. 814

At the request of Mr. SANTORUM, the names of the Senator from New Hampshire (Mr. SMITH) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of amendment No. 814 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

AMENDMENT NO. 826

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of amendment No. 826 proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement

Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

AMENDMENT NO. 827

At the request of Mr. DOMENICI, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 827 intended to be proposed to S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, and Mr. DOMENICI):

S. 1118. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to identify certain routes in New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System; to the Committee on Commerce, Science, and Transportation.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to promote the future economic vitality of the communities in Union and Colfax Counties, and throughout Northeast New Mexico. Our bill designates the route for New Mexico's section of the Ports-to-Plains High Priority Corridor, which runs 1000 miles from Laredo, Texas, to Denver, Colorado. I am pleased to have my colleague, Senator DOMENICI, as a cosponsor.

I am certain every senator recognizes the importance of basic transportation infrastructure to economic development in their State. Roads and airports link a region to the world economy.

In New Mexico, it is well known that regions with four-lane highways and economical commercial air service will most readily attract new jobs. I have long pressed at the Federal level to ensure our communities have the roads and airports they need for their long-term economic health. That is why this bill I am introducing today is so important. With the passage of NAFTA, the Ports-to-Plains corridor is centrally situated to serve international trade and promote economic development along its entire route.

In 1998 Congress identified the corridor from the border with Mexico to Denver, CO, as a High Priority Corridor on the National Highway System. Last year, a comprehensive study was undertaken to determine the feasibility of creating a continuous four-lane highway along the corridor. Alternative highway alignments for the trade corridor were also developed and evaluated. The study was conducted under the direction of a steering committee consisting of the State departments of transportation in Texas, New Mexico, Oklahoma, and Colorado.

It is important to note that public input was an important facet at every stage of the study. The steering committee sponsored public meetings in May of last year in Clayton, NM, and five other locations along the corridor. A final series of seven public meetings was held this year. I note that the level of public interest and participation was highest in New Mexico. Over 600 citizens attended the public meeting in Raton, NM, on March 6, 2001, while a total of only 700 people attended all six of the other public meetings in Texas, Oklahoma, and Colorado clearly demonstrating the importance of this trade corridor designation to Northeast New Mexico. A final report has just been prepared and a summary can be found on the web at www.wilbursmith.com/portstoplains.

The study evaluated two routes for the trade corridor between Amarillo, TX, and Denver, CO. One route ran along U.S. Highway 64/87 between Clayton and Raton, NM. The other followed U.S. Highway 287, bypassing New Mexico. The feasibility study found that either route between Amarillo and Denver would result in favorable conditions. However, the alignment through New Mexico, from Clayton to Raton, along U.S. Highway 64/87, was dramatically more favorable than the alternative in terms of travel efficiency, benefits and feasibility, including travel time savings and accident cost reduction. In particular:

The benefit-to-cost ratio of the New Mexico route was 75 percent better than for the route bypassing New Mexico.

The traffic volume in 2025 would be 150 percent higher on the New Mexico corridor than on the alternative, including 25 percent more trucks.

Two thirds of the New Mexico alignment is already four lanes wide or is soon slated to be widened to four lanes, compared to only one-third of the alternative alignment.

The alternative would require acquisition of more than twice the right-of-way and would displace nearly three times more residential and commercial facilities.

The New Mexico alignment would serve a population of nearly 2 million persons, compared to 1.5 million for the alternative.

Finally, the construction costs of the New Mexico alignment are $175 million less than the route bypassing New Mexico.

The alternative route had a very slight advantage over the New Mexico alignment only in economic development benefits.

With the feasibility study results now complete, The New Mexico Highway Commission last week voted unanimously to support the designation New Mexico's portion of the Ports-to-Plains Trade High Priority Corridor along U.S. Highway 64/87 between Clayton and Raton. The designated route connects into Texas along Highway 87 to Dumas, and to Denver along Interstate 25.

Very simply, this bill advances the same goal, to designate the route between Clayton and Raton in New Mexico as part of the Ports-to-Plains Corridor. As the huge turnout for the public meeting in Raton in March clearly demonstrates, there is overwhelming public support for this route throughout Union and Colfax Counties in New Mexico. There is also very strong support in neighboring Las Animas and Pueblo Counties in Colorado, including the cities of Trinidad and Pueblo.

In Texas, the state already plans to widen to four lanes its portion of the route between Dumas and the New Mexico state line. In New Mexico, the Citizens' Highway Assessment Task Force identified the route between Clayton and Raton as a priority to upgrade to four lanes. The initial needs and purposes study for the project is currently listed in New Mexico's five-year Statewide Transportation Improvement Study, STIP.

In addition to possible routes north of Amarillo, TX, I should also note that the feasibility study considered a variety of alternative routes south of Amarillo, on down to Laredo. However, Congress already indicated its preferred southern leg in the Omnibus Appropriations Act of 2001, though the Congressional designation of the southern route was enacted long before we had the results of the feasibility study. The Texas Transportation Commission is voting today to confirm Congress' designation of the southern leg.

The studies have now been completed. The results are in. The route south of Amarillo has been set. Congress should now complete the designation of the final leg of the Ports-to-Plains Trade Corridor by passing our bill.

The time to act is now. Once the route is established the States can move forward with their regional and statewide transportation plans, environmental studies, design work, acquisition of rights of way, and initial construction of the most critical segments.

I thank Senator DOMENICI for cosponsoring the bill, and I hope all senators will join us in support of this important legislation.

I ask unanimous consent that a copy of the New Mexico State Highway Commission's resolution and the text of the bill be printed in the RECORD.

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

S. 1118

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

SECTION 1. IDENTIFICATION OF PORTS-TO-PLAINS HIGH PRIORITY CORRIDOR ROUTES IN NEW MEXICO AND COLORADO.

Section 1105(c)(38) of the Intermodal Surface Transportation Efficiency Act of 1991

(105 Stat. 2032; 114 Stat. 2763A–201) is amended—

(1) in subparagraph (A), by redesignating clauses (i) through (viii) as subclauses (I) through (VIII), respectively;

(2) by redesignating subparagraph (A) as clause (i);

(3) by striking ''(38) The'' and inserting ''(38)(A) The'';

(4) in subparagraph (A) (as designated by paragraph (3))—

(A) in clause (i) (as redesignated by paragraph (2))—

(i) in subclause (VII) (as redesignated by paragraph (1)), by striking ''and'' at the end;

(ii) in subclause (VIII) (as redesignated by paragraph (1)), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(IX) United States Route 87 from Dumas to the border between the States of Texas and New Mexico.''; and

(B) by adding at the end the following:

''(ii) In the States of New Mexico and Colorado, the Ports-to-Plains Corridor shall generally follow—

''(I) United States Route 87 from the border between the States of Texas and New Mexico to Raton, New Mexico; and

''(II) Interstate Route 25 from Raton, New Mexico, to Denver, Colorado.''; and

(5) by striking ''(B) The corridor designation contained in paragraph (A)'' and inserting the following:

''(B) The corridor designation contained in subclauses (I) through (VIII) of subparagraph (A)(i)''.

STATE OF NEW MEXICO, STATE HIGHWAY COMMISSION, RESOLUTION NO 2001–3 (JUN)

Whereas, in the Transportation Equity Act for the 21st Century (Public Law 105–178, Section 1211) Congress designated the Ports to Plains Corridor (Corridor), from the Mexican border via I–27 (in Texas) to Denver, Colorado, as one of 43 High Priority Corridors to integrate regions and to improve the efficiency and safety of commerce and travel and to promote economic development; and

Whereas, the Texas Department of Transportation has identified the highways in Texas that it will recommend to the Federal Highway Administration be part of the Corridor from Laredo to Dumas, but has deferred to the States of New Mexico, Oklahoma, and Colorado to reach a consensus on the recommendation of highways to complete the Corridor from Dumas to Denver; and

Whereas, a feasibility study (Study) under the direction of a steering committee made up of representatives of the affected states, has identified two alternatives to complete the Corridor from Amarillo to Denver. The first alternative designated N1, goes from Amarillo (following U.S. 287) to Dumas, Texas, then follows U.S. 87 and U.S. 64/87 from Dumas, through Clayton, New Mexico, to Raton, New Mexico, and then continues to Denver following I–25 through Trinidad, Pueblo, and Colorado Springs, Colorado. The second alternative, designated N4, bypasses New Mexico by following U.S. 287 through Boise City, Oklahoma to Lamar and Limon, Colorado and then follows I–70 to Denver; and

Whereas, the public participation process of the Study reflects overwhelming support in the communities and related areas of Clayton, Raton, Trinidad, and Pueblo for the N1 alternative; and

Whereas, the N1 alternative will better serve the intent of Congress in creating the High Priority Corridor program because it will integrate more regional population centers and provide greater opportunities for economic development than the N4 alternative, which bypasses these population centers and thus limits the potential for economic development; and

Whereas, the N4 alternative will cost more to construct than the N1 alternative because the N4 alternative will require the construction of more new four land highway, including the cost of right of way acquisition; and

Whereas, portions of I–25 in alternative N1 from Denver to Colorado Springs are being improved and need additional improvements to better serve current needs and this Commission understands that a bypass on the Interstate Highway System for Colorado Springs is in conceptual plans of the Colorado Department of Transportation: Now, therefore it is

Resolved by the State Highway Commission, That it supports the N1 alternative to bring the Ports to Plains Corridor through New Mexico on U.S. 64/87, including upgrading U.S. 64/87 in New Mexico to a four-lane highway, in order to achieve the intent of Congress in the High Priority Corridor program to integrate regional population centers and provide opportunities for economic development; and it is further

Resolved, That the State Highway Commission supports additional federal funding for improvements to I–25 in Colorado and a bypass of Colorado Springs if that plan is adopted by the Colorado Department of Transportation; and it is further

Resolved, That a copy of this Resolution be provided to the Ports to Plains Project Steering Committee and feasibility study consultant, the Texas, Oklahoma, and Colorado Departments of Transportation, the Federal Highway Administration, New Mexico, Division, the governing bodies of the municipalities of Trinidad, Pueblo, and Colorado Springs, Colorado, Clayton, Des Moines, Raton, Springer, Cimarron, Eagle Nest, Angel Fire, Taos, Questa, and Red River, New Mexico and Union, Colfax, and Taos Counties, New Mexico, the New Mexico Municipal League, the New Mexico Association of Counties, all members of the New Mexico Congressional delegation, and all members of the New Mexico Legislative leadership.

Adopted in open meeting by the State Highway Commission on June 21, 2001.

Mr. DOMENICI. Mr. President, I rise today to support the Ports-to-Plains NAFTA corridor designation through New Mexico, along U.S. Highway 64/87 from Clayton to Raton.

From the beginning, I have vigorously supported the proposed route through New Mexico. In fact, while a member of the Senate Appropriations Subcommittee on Transportation, I worked to make the proposed route through New Mexico a possibility.

Further, representatives from my office attended a public comment meeting on the route in Raton, New Mexico in March 2001. I thought it important that the more than three hundred New Mexicans in attendance know that I was behind them.

I have supported the route from the beginning because I knew that it would be good for the people of my state and good for the country.

The conclusions of the feasibility study give clear and convincing evidence supporting what I had suspected all along. The route through New Mexico, known as the N–1 route, is the best choice.

In order to demonstrate that a particular infrastructure best meets the public interest over another, one must consider a host of factors.

Those factors include considering the public's preferences, the cost of the competing projects, and the relative efficiency of implementing each project.

The feasibility study concluded that the Ports-to-Plain route best meets this criteria.

The traveling public overwhelmingly prefers the route through New Mexico, which carries 28,000 vehicles per day. The competing proposal only has traffic flows of 11,000 vehicles each day.

The N–1 route through New Mexico represents the best deal for the taxpayer since it costs $175 million less than the competing route.

Last, the route through New Mexico would be the most efficient to implement since sixty-seven percent of the highway has already been programmed for four-lane expansion. The competing route has only programmed thirty-seven percent of the road for crucial four-lane improvements.

Furthermore, the State of New Mexico is committed to securing the Ports-to-Plains designation. Evidencing that commitment, the State's Highway Commission recently passed a resolution supporting the Ports-to Plains designation from Dumas, Texas to Raton, New Mexico.

I pledge to continue working to ensure that the Ports-to-Plains corridor is designated through New Mexico. The route through Raton, New Mexico is the most efficient and cost effective option for the U.S. taxpayer, furthers the interest of the people of my State, and is supported by the State government.

By Mr. LEAHY (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. COCHRAN, Mrs. CARNAHAN, Ms. SNOWE, and Mr. JOHNSON):

S. 1119. A bill to require the Secretary of Defense to carry out a study of the extent to the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study of Congress, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, I rise today to introduce important legislation that will impact the health and readiness of the Selected Reserve. The Selected Reserves includes over 900,000 dedicated men and women divided between the National Guard and the Reserves. Over the past ten years, this force has become increasingly critical to carrying out our Nation's defense, whether deploying to far-flung regions of the globe or backfilling for other units making those deployments.

The country simply cannot meet its commitments without these proud citizen-soldiers. It follows, then, that steps to increase the readiness of the Selected Reserves will have a positive effect on the readiness of the entire force. It was this goal in mind that I introduce the Health Care for Selected Reserve Act.

This legislation will ensure that all members of the drilling reserves have adequate health insurance. The legislation acknowledges our reserves' continuing contributions to the defense of the Nation and expresses the need for full medical coverage. The legislation will commission an independent study on the extent of insurance shortfalls and examine the feasibility of extending the TRICARE or FEHBP program to the reserves.

Currently, when a member of the Selected Reserve goes on active duty over 60 days, they are provided full coverage under the TRICARE Prime program conducted through the active military's medical treatment facilities. But when reservists are not on active duty, they are left to gain insurance through their civilian employers. Like the rest of society, most gain adequate coverage through their employers like the rest of society, but, mirroring broader shortfalls in the wider population, many go without any health coverage at all. This shortfall has an even more noticeable affect on the country because it affects military readiness.

There is also an underlying issue of fairness here. It seems wrong to me that one week someone can be patrolling the skies over Iraq with full coverage and the next week they can have no health coverage at all. That situation gives the impression that the National Guard and the Reserves are the poorly-paid subcontractor to the active duty force. If we really believe in the idea of the Total Force, we cannot let these health coverage shortfalls exist.

I want to thank the other sponsors of this bill for helping me craft this bill. Senators DEWINE, DASCHLE, COCHRAN, CARNAHAN, SNOWE, and JOHNSON are deeply interested in this issue, and I look forward to working with them to develop a set of concrete steps to meet this problem. I urge the legislation's adoption.

Mr. President, I ask unanimous consent that the full 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. 1119

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The Selected Reserve of the Ready Reserve of the Armed Forces is the element of the Armed Forces of the United States that has the capability quickly to augment the active duty forces of the Armed Forces successfully in times of crisis.

(2) The Selected Reserve has been assigned increasingly critical levels of responsibility for carrying out the worldwide military missions of the Armed Forces since the end of the Cold War.

(3) Members of the Selected Reserve have served proudly as mobilized forces in numerous theaters from Europe to the Pacific and South America, indeed, around the world.

(4) The active duty forces of the Armed Forces cannot successfully perform all of the national security missions of the Armed Forces without augmentation by the Selected Reserve.

(5) The high and increasing tempo of activity of the Selected Reserve causes turbulence in the relationships of members of the Selected Reserve with their families, employers, and reserve units.

(6) The turbulence often results from lengthy, sometimes year-long, absences of the members of the Selected Reserve from their families and their civilian jobs in the performance of military duties necessary for the execution of essential missions.

(7) Family turbulence includes the difficulties associated with vacillation between coverage of members' families for health care under civilian health benefits plans and coverage under the military health benefits options.

(8) Up to 200,000 members of the Selected Reserve, including, in particular, self-employed members, do not have adequate health benefits.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that steps should be taken to ensure that every member of the Selected Reserve of the Ready Reserve of the Armed Forces and the member's family have health care benefits that are adequate—

(1) to ease the transition of the member from civilian life to full-time military life during a mobilization of reserve forces;

(2) to minimize the adverse effects of a mobilization on the member's ability to provide for the member's family to have ready access to adequate health care; and

(3) to improve readiness and retention in the Selected Reserve.

SEC. 3. STUDY OF HEALTH CARE BENEFITS COVERAGE FOR MEMBERS OF THE SELECTED RESERVE.

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall enter into a contract with a federally funded research and development center to carry out a study of the needs of members of the Selected Reserve of the Ready Reserve of the Armed Forces and their families for health care benefits.

(b) REPORT.—(1) Not later than March 1, 2002, the Secretary shall submit a report on the results of the study to Congress.

(2) The report shall include the following matters:

(A) Descriptions, and an analysis, of how members of the Selected Reserve and their dependents currently obtain coverage for health care benefits, together with statistics on enrollments in health care benefits plans.

(B) The percentage of members of the Selected Reserve, and dependents of such members, who are not covered by any health insurance or other health benefits plan, together with the reasons for the lack of coverage.

(C) Descriptions of the disruptions in health benefits coverage that a mobilization of members of the Selected Reserve causes for the members and their families.

(D) At least three recommended options for cost-effectively preventing or reducing the disruptions by means of extending health care benefits under the Defense Health Program or the Federal Employees Health Benefits program to all members of the Selected Reserve and their families, together with an estimate of the costs of individual coverage and family coverage under each option.

(E) A profile of the health status of members of the Selected Reserve and their dependents, together with a discussion of how that profile would affect the cost of providing adequate health benefits coverage for that population of beneficiaries.

(F) An analysis of the likely effects that providing enhanced health benefits coverage to members of the Selected Reserve and their families would have on recruitment and retention for, and the readiness of, the Selected Reserve.

(3) In formulating the options to recommend under paragraph (2)(D), the Secretary shall consider an expansion of the TRICARE program or the Federal Employees Health Benefits program to cover the members of the Selected Reserve and their families.

Mr. DASCHLE. Mr. President, today I join with several important leaders of the Senate's National Guard Caucus to introduce S. 1119, which we believe will one day result in improved health care for Guard and Reserve members and their families.

It is appropriate that we introduce this now, during a week in which Senate floor debate has focused almost exclusively on health care, with several lively discussions about the importance of expanding health coverage to the uninsured.

Unfortunately, Guard members and leaders in South Dakota tell me that many of the uninsured serve in the National Guard. Many of them work for small businesses that cannot afford to offer health insurance to their employees. Some of them have insurance for themselves, but cannot afford to insure their dependents.

Meanwhile, this Nation is utilizing the Guard more heavily than at any other time in our Nation's history. During the Cold War, a Guard member might serve and retire without ever being called to active duty. Starting with the Persian Gulf War and continuing to this day in Bosnia, Kosovo and Iraq, reservists are serving alongside the active duty military during deployments that can last 6 months or more.

Each of these deployments strains the Guard member's employer, who temporarily gives up a valued employee. And it strains individual soldiers and their families, even if they have health insurance, because employer-provided coverage often lapses during periods of active duty.

The premise of our bill is that health coverage can help the Guard attract and retain top-flight personnel and also improve readiness; that it can help service members and their families, especially in coping with mobilization; and that it can relieve some of the burdens faced today by National Guard

employers, particularly small businesses.

This bill lays the groundwork for a solution. S. 1119 would authorize a study by a non-government research center to explore the extent of the problem and recommend at least three cost-effective solutions, including the possibility of opening the TRICARE program or the Federal Employees Health Benefits Program to reservists and their families. The study would look at disruptions to health coverage caused by mobilizations and analyze the likely impact of enhanced health care on recruitment and retention.

We have developed this bill in consultation with the Military Coalition and several of its members. I appreciate their concern for this problem and their work to help develop a solution. In this regard, I would particularly like to acknowledge the role of the Enlisted Association of the National Guard of the United States, the Reserve Officers Association, the National Guard Association of the United States, and the Retired Officers Association.

I hope and believe that today's bill introduction can be an important step toward providing adequate health care for members of the South Dakota National Guard and other reservists around the Nation, who do so much on behalf of their communities, their States, and this Nation.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):

S. 1120. A bill to amend the Foreign Assistance Act of 1961 to increase the authorization of appropriations for fiscal year 2002, and to authorize appropriations for fiscal year 2003, to combat HIV and AIDS, and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, this week, as the United Nations meets to prepare a global strategy to combat the growing worldwide HIV–AIDS crisis, I am proud to introduce legislation aimed at ensuring that the United States continues to be a leader in the fight against this deadly disease.

I am pleased to once again join my good friend and colleague from Oregon, Senator SMITH, in introducing this bill. Last year, we teamed up to offer the Global AIDS Prevention Act that doubled funding for the United States Agency for International Development's HIV–AIDS programs. Not only was this legislation included in broader international health legislation which became law, it was also fully funded for the current fiscal year. This year, we are looking to build upon last year's success by again doubling the amount USAID spends on fighting the global HIV–AIDS epidemic.

The Global AIDS Research and Relief Act would authorize $600 million in each of the next two fiscal years. It is designed to complement international HIV–AIDS relief efforts so that a truly global response can be implemented in sub-Saharan Africa, Latin America, Southeast Asia, Russia, and all places where people are suffering from this epidemic.

In the 20 years since AIDS was first recognized, 22 million people worldwide have died from the disease, and 36 million more are living with HIV or AIDS today. Of those living with the disease, 95 percent live in the developing world where advanced technology to combat AIDS is not readily available. It is predicted that AIDS will soon become the deadliest infectious epidemic in world history, surpassing the Plague, which killed an estimated 25 million people.

This new chapter in the AIDS epidemic is especially tragic because its growth is preventable. While there is no cure for this horrible disease, progress is being made. New medical breakthroughs afford HIV-positive people a much greater life expectancy than they would have had ten years ago. Unfortunately, these efforts are not reaching the Nations whose people need help the most. By increasing authorization for USAID to establish and expand these valuable initiatives in developing countries, our bill helps to remedy this disparity in the quality of care.

Specifically, the bill addresses the need for increased voluntary testing and counseling, so that we can educate people and keep its spread in check. With this funding authorization, the USAID will be able to provide more for the most vulnerable constituencies, children and young adults. The money will be used for drugs like nevirapine, which is given to expectant HIV-positive mothers to prevent the spread of the infection to their unborn children.

The United States is a trendsetter in efforts to address the pandemic of HIV–AIDS. Through the work of USAID, we have instituted prevention, care, and treatment programs in some of the hardest-hit countries in sub-Saharan Africa. The Centers for Disease Control and Prevention has worked with partners in other countries to expand treatment programs. Other agencies such as the Department of Labor, the Department of Agriculture and the Department of Defense are contributing to the effort to end the spread of AIDS. But far more remains to be done.

I urge my colleagues to support this measure and ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1120

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 ''Global AIDS Research and Relief Act of 2001''.

SEC. 2. DEFINITIONS.

In this Act:

(1) AIDS.—The term ''AIDS'' means the acquired immune deficiency syndrome.

(2) ASSOCIATION.—The term ''Association'' means the International Development Association.

(3) BANK.—The term ''Bank'' or ''World Bank'' means the International Bank for Reconstruction and Development.

(4) HIV.—The term ''HIV'' means the human immunodeficiency virus, the pathogen, which causes AIDS.

(5) HIV/AIDS.—The term ''HIV/AIDS'' means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) According to the Surgeon General of the United States, the epidemic of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) will soon become the worst epidemic of infectious disease in recorded history, eclipsing both the bubonic plague of the 1300s and the influenza epidemic of 1918–1919 which killed more than 20,000,000 people worldwide.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 36,100,000 people in the world today are living with HIV/AIDS, of which approximately 95 percent live in the developing world.

(3) UNAIDS data shows that among children age 15 and under worldwide, more than 4,300,000 have died from AIDS, more than 1,400,000 are living with the disease; and in 1 year alone—2000—an estimated 600,000 became infected, of which over 90 percent were babies born to HIV-positive women.

(4) Although sub-Saharan Africa has only 10 percent of the world's population, it is home to more than 25,300,000—roughly 70 percent—of the world's HIV/AIDS cases.

(5) Worldwide, there have already been an estimated 21,800,000 deaths because of HIV/AIDS, of which more than 80 percent occurred in sub-Saharan Africa.

(6) According to UNAIDS, by the end of 1999, 13,200,000 children have lost at least one parent to AIDS, including 12,100,000 children in sub-Saharan Africa, and are thus considered AIDS orphans.

(7) At current infection and growth rates for HIV/AIDS, the National Intelligence Council estimates that the number of AIDS orphans worldwide will increase dramatically, potentially increasing threefold or more in the next 10 years, contributing to economic decay, social fragmentation, and political destabilization in already volatile and strained societies. Children without care or hope are often drawn into prostitution, crime, substance abuse, or child soldiery.

(8) The discovery of a relatively simple and inexpensive means of interrupting the transmission of HIV from an infected mother to the unborn child—namely with nevirapine (NVP), which costs $4 a tablet—has created a great opportunity for an unprecedented partnership between the United States Government and the governments of Asian, African, and Latin American countries to reduce mother-to-child transmission (also known as ''vertical transmission'') of HIV.

(9) According to UNAIDS, if implemented this strategy will decrease the proportion of orphans that are HIV-infected and decrease infant and child mortality rates in these developing regions.

(10) A mother-to-child antiretroviral drug strategy can be a force for social change,

providing the opportunity and impetus needed to address often longstanding problems of inadequate services and the profound stigma associated with HIV-infection and the AIDS disease. Strengthening the health infrastructure to improve mother-and-child health, antenatal, delivery, and postnatal services, and couples counseling generates enormous spillover effects toward combating the AIDS epidemic in developing regions.

(11) A January 2000 United States National Intelligence Estimate (NIE) report on the global infectious disease threat concluded that the economic costs of infectious diseases—especially HIV/AIDS—are already significant and could reduce GDP by as much as 20 percent or more by 2010 in some sub-Saharan African nations.

(12) The HIV/AIDS epidemic is of increasing concern in other regions of the world, with UNAIDS estimating that there are more than 5,800,000 cases in South and Southeast Asia, that the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa, and that HIV infections have doubled in just 2 years in the former Soviet Union.

(13) Russia is the new ''hot spot'' for the pandemic and more Russians are expected to be diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined.

(14) Despite the discouraging statistics on the spread of HIV/AIDS, some developing nations—such as Uganda, Senegal, and Thailand—have implemented prevention programs that have substantially curbed the rate of HIV infection.

(15) Accordingly, United States financial support for medical research, education, and disease containment as a global strategy has beneficial ramifications for millions of Americans and their families who are affected by this disease, and the entire population, which is potentially susceptible.

(b) PURPOSES.—The purposes of this Act are to—

(1) help prevent human suffering through the prevention, diagnosis, and treatment of HIV/AIDS; and

(2) help ensure the viability of economic development, stability, and national security in the developing world by advancing research to—

(A) understand the causes associated with HIV/AIDS in developing countries; and

(B) assist in the development of an AIDS vaccine.

SEC. 3. ADDITIONAL ASSISTANCE AUTHORITIES TO COMBAT HIV AND AIDS.

Paragraphs (4) through (6) of section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) are amended to read as follows:

''(4)(A) Congress recognizes the growing international dilemma of children with the human immunodeficiency virus (HIV) and the merits of intervention programs aimed at this problem. Congress further recognizes that mother-to-child transmission prevention strategies can serve as a major force for change in developing regions, and it is, therefore, a major objective of the foreign assistance program to control the acquired immune deficiency syndrome (AIDS) epidemic.

''(B) The agency primarily responsible for administering this part shall—

''(i) coordinate with UNAIDS, UNICEF, WHO, national and local governments, other organizations, and other Federal agencies to develop and implement effective strategies to prevent vertical transmission of HIV; and

''(ii) coordinate with those organizations to increase intervention programs and introduce voluntary counseling and testing, antiretroviral drugs, replacement feeding, and other strategies.

''(5)(A) Congress expects the agency primarily responsible for administering this part to make the human immunodeficiency virus (HIV) and the acquired immune deficiency syndrome (AIDS) a priority in the foreign assistance program and to undertake a comprehensive, coordinated effort to combat HIV and AIDS.

''(B) Assistance described in subparagraph (A) shall include help providing—

''(i) primary prevention and education;

''(ii) voluntary testing and counseling;

''(iii) medications to prevent the transmission of HIV from mother to child;

''(iv) programs to strengthen and broaden health care systems infrastructure and the capacity of health care systems in developing countries to deliver HIV/AIDS pharmaceuticals, prevention, and treatment to those afflicted with HIV/AIDS; and

''(v) care for those living with HIV or AIDS.

''(6)(A) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $600,000,000 for each of the fiscal years 2002 and 2003 to carry out paragraphs (4) and (5).

''(B) Of the funds authorized to be appropriated under subparagraph (A), not less than 65 percent is authorized to be available through United States and foreign nongovernmental organizations, including private and voluntary organizations, for-profit organizations, religious affiliated organizations, educational institutions, and research facilities.

''(C)(i) Of the funds authorized to be appropriated by subparagraph (A), priority should be given to programs that address the support and education of orphans in sub-Saharan Africa, including AIDS orphans and prevention strategies for vertical transmission referred to in paragraph (4)(A).

''(ii) Assistance made available under this subsection, and assistance made available under chapter 4 of part II to carry out the purposes of this subsection, may be made available notwithstanding any other provision of law that restricts assistance to foreign countries.

''(D) Of the funds authorized to be appropriated by subparagraph (A), not more than 7 percent may be used for the administrative expenses of the agency primarily responsible for carrying out this part of this Act in support of activities described in paragraphs (4) and (5).

''(E) Funds appropriated under this paragraph are authorized to remain available until expended.''.

Mr. SMITH of Oregon. Mr. President, I rise today to join my colleague Senator BOXER to introduce the ''Global AIDS Research and Relief Act of 2001.'' This important legislation increases the authorization for USAID to carry out its prevention, treatment and care programs to $600 million for fiscal years 2002 and 2003. These additional resources will help prevent human suffering through the prevention, diagnosis and treatment of HIV/AIDS.

The world is facing a global health problem of disastrous proportions in the global HIV/AIDS pandemic. In the past year, this issue has received much needed attention from the international community and the U.S. Government. But, unfortunately, our efforts and the efforts of other governments, the private sector, and foundations have not been enough and the pandemic continues to wreak havoc on the lives of millions of people around the world. The United States plays a key role in the global effort and our bill seeks to strengthen those efforts.

Over 58 million people have already been infected with HIV/AIDS and 36 million people are living today with HIV/AIDS. Of those living with the disease, over 95 percent live in the developing world where the economic and social structures in those countries are being destroyed. Sub-Saharan Africa is truly an epicenter for this disease, but increasingly, people are becoming infected in Asia, the Caribbean, and Eastern Europe. Soon, HIV/AIDS will become the worst infectious disease epidemic in recorded history, causing more deaths than both the bubonic plague of the 1930s and the influenza epidemic of 1918–1919.

Young adults and children have been particularly hard hit by the pandemic. Among children under the age of 15, more than 4.3 million have died of AIDS and more than 1.4 million are living with AIDS. Just last year, 600,000 young people became infected and over 90 percent were babies born to HIV-positive mothers.

HIV/AIDS is also hitting those between the ages of 15—24. In some sub-Saharan African countries, the infection rates are more than 40 percent in this population. These high infection rates will have a significant impact on the social and economic health of developing nations. The United States Census Bureau has found the life expectancy in sub-Saharan Africa has fallen almost 30 years within a decade. By 2010, it is estimated that the average life expectancy in Botswana will be 29 years of age, 30 years in Swaziland, 33 years in Namibia, and 36 years in South Africa. Millions of young adults are losing their lives and this will significantly impact the economic and political viability of these Nations. Some Nations are estimated to have a reduced GDP of at least 20 percent or more by 2010 due to decreased productivity of its workers. Over the past thirty years, the United States has invested millions of dollars in democracy building programs and economic stabilization programs. HIV/AIDS has quickly erased much of this progress.

As we look to the future of the world, we are also confronted by the problem of AIDS orphans. USAID estimates that there will be 44 million orphans by 2010. Without a parent or family to care for them, many will be drawn into prostitution, crime, substance abuse or child soldiery. Furthermore, without stability many of these children will not seek help when they are sick. AIDS threatens to reverse years of steady progress of child survival in developing countries.

The prevalence of HIV/AIDS in the young will have a significant impact on the economic future of the world. The pandemic is contributing to economic decay, social fragmentation, and political destabilization in already strained and volatile societies. These factors are of particular concern in South and Southeast Asia, the Caribbean, Eastern Europe, and the former Soviet Union where the pandemic is just beginning to become a problem. It is estimated that there are more than 5.8 million cases in South and Southeast Asia and the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa. Russia is the new ''hot spot'' for HIV/AIDS. More Russians are expected to be diagnosed with HIV/AIDS by the end of 2001 than all cases from previous years combined. Many of these countries do not yet have prevention, treatment and care programs in place and we must equip our federal agencies with the resources and flexibility needed to address the pandemic in all of these areas.

The United States is seen as a leader in efforts to address the epidemic. We contributed almost $500 million to fight HIV/AIDS in fiscal year 2001. Through programs at the U.S. Agency for International Development, we have instituted prevention, care and treatment programs in some of the worst hit countries in sub-Saharan Africa. At the Centers for Disease Control and Prevention, we have worked with partners in other countries to expand treatment and home-based care programs. Other agencies, including the Department of Labor, the Department of Defense, and the Department of Agriculture have contributed in their areas of expertise.

This legislation recognizes the growing problems encountered by children around the world and instructs USAID to make efforts to prevent mother-to-child transmission and orphan programs a major objective of their program. Through coordination with UN agencies, national and local governments, non-governmental organizations and foundations, the U.S. government shall implement effective strategies to prevent vertical transmission of HIV. Further, the bill states that the agency must strengthen and expand all of its primary prevention and education programs.

This bill also calls on USAID to continue to provide support to research that will help the world to understand the causes associated with HIV/AIDS in developing countries and assist in the development of an effective AIDS vaccine.

I believe the ''Global AIDS Research and Relief Act of 2001'' can make a profound difference in the lives of millions of people facing the HIV/AIDS epidemic. I ask all my colleagues to join us and support this legislation at this critical moment in the spread of the disease.

By Mr. FEINGOLD (for himself, Mr. CRAIG, and Mr. KOHL):

S. 1123. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I rise today with my colleagues Senator CRAIG and Senator KOHL to introduce a modified version of the ''Dairy Promotion Fairness Act,'' which I introduced earlier this year. This legislation provides equity to domestic producers who have been paying into the Promotion Program while importers have gotten a free ride.

I introduce a revised version of this legislation, after I received suggestions on how to improve this legislation from America's dairy farmers. Their input is vital to enacting effective dairy legislation, and I thank all the dairy producers of my State not only for their views, but also their work to strengthen Wisconsin's rural economy.

Since the National Dairy Promotion and Research Board conducts only generic promotion and general product research, domestic farmers and importers alike benefit from these actions. The Dairy Promotion Fairness Act requires that all dairy product importers contribute to the program.

Unlike other agricultural commodity checkoff promotion programs, such as beef, cotton and eggs, the dairy checkoff program collects funds solely from domestic producers. Importers of dairy products do not have to pay into the program, yet they reap the benefits of dairy promotion.

I would also like to make sure my colleagues are aware that June is Dairy Month. This tradition of honoring our hard working dairy farmers, began as ''National Milk Month'' first held in the summer of 1937. Wisconsin celebrates this proud heritage every June by honoring our past accomplishments of Wisconsin as America's Dairy State.

Wisconsin became a leader in the dairy industry after the first dairy cow came to Wisconsin in the 1800's and by 1930 it earned the nickname, America's Dairyland. Dairy history and the State's history have been intertwined from the beginning. The people of Wisconsin are defined by the image of dairy farmers: hardworking, honest and the heirs of a great tradition.

I would like to share with you some of the accomplishments of Wisconsin's Dairy Farmers. Wisconsin is the No. 1 cheese-producing State in the country, with 28 percent of the total annual U.S. cheese production. Wisconsin's 130 cheese plants produce more than 350 varieties, types and styles of Wisconsin cheese.

We produce more than 2 billion pounds of cheese annually. We have more licensed cheese makers than any other state with some of the most stringent state standards for cheesemaking and overall dairy product quality. We lead the nation in the production of specialty cheeses, such as Gorgonzola, Gruyere (gru-yure), Asiago, Provolone, Aged Cheddar, Gouda, Blue, Feta and many others. In fact, we are the only producer of Limburger cheese in the country.

Colby, Wisconsin is the home Colby cheese. And Brick cheese was invented in Wisconsin, Brick is named for its shape, and because cheese makers originally used bricks to press moisture from the cheese.

Wisconsinites have recognized this proud tradition by holding over 100 dairy celebrations across our State, including dairy breakfasts, ice cream socials, cooking demonstrations, festivals and other events. These events are all designed to make the public aware of the quality, variety and great taste of Wisconsin dairy products and to honor the producers who make it all possible.

We must follow the lead of Wisconsin, and honor our dairy farmers by passing this legislation and halting the free ride dairy importers currently receive.

The Dairy Promotion Fairness Act supports the dairy marketing board's efforts to educate consumers on the nutritional value of dairy products. It also treats our farmers fairly by asking them not to bear the entire financial burden for a promotional program that benefits importers and domestic producers alike.

We have put our own producers at a competitive disadvantage for far too long. It's high time importers paid for their fair share of the program.

By Mr. MCCONNELL (for himself, Mr. AKAKA, Mr. ALLARD, Mr. BAYH, Mr. BINGAMAN, Mr. CLELAND, Mr. COCHRAN, Mr. EDWARDS, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. HELMS, Mr. INHOFE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LEAHY, Mr. LEVIN, Mr. REED, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Mr. SPECTER, Mr. TORRICELLI, and Mr. WYDEN):

S. 1125. A bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

Mr. MCCONNELL. Mr. President, incredibly, there is a good chance that today someone will put on a facial cream, apply a medicine, or even eat a soup that contains bear parts. Bear bile, gallbladders, paws and claws are

found in culinary delicacies, cosmetics and traditional ethnic medicines in Asia, and these parts often fetch thousands of dollars. A cup of bear paw soup has sold for up to $1,500 in Taiwan, and wildlife experts say that a gallbladder can command tens of thousands of dollars on the Asian market. Not surprisingly, the lure of astronomical profits overseas has spawned rampant poaching of American bears. The United States Fish and Wildlife Service continues to find bear carcasses rotting with their gallbladders ripped out and their paws sliced off. Just today, creator Jack Elrod chronicled this heinous act in his wildlife preservation comic strip, ''Mark Trail.''

The slaughter of American black bears and the sale of their parts is a deliberate and dastardly plot hatched by a black market of poachers, traders, and smugglers who have been known to transport bear parts in cans of chocolate syrup or bottles of scotch. Because certain Asian bear populations are being poached to near extinction, poachers and smugglers often target American black bears to meet the demand for bear parts in Asia and even within certain communities here at home. In Oregon alone, one poaching-for-profit ring reportedly killed between 50–100 black bears a year for 5 to 10 years simply to harvest their gallbladders. While the bear population in North America presently is stable, the growth of illegal and inhumane poaching, coupled with the difficulty of anti-poaching enforcement efforts, could pose a real threat to our resident bear population. We should not stand by and allow American bears to be decimated by poachers.

The depleted bear populations in Asia suffer a different, but equally cruel, fate as they are ''protected'' to meet the demand for their bile. National Geographic, U.S News and World Report and The Los Angeles Times each have reported that Asiatic bears in China have been trapped in bear ''farms'' and milked for their bile through catheters inserted into their gallbladders. Bears in other countries often fare no better. In South Korea, for example, bears have been bludgeoned to death or boiled alive in front of patrons to prove they are purchasing authentic Asian bear parts.

Some States in America prohibit trading in bear parts. But others do not. And to make matters more complicated, some States prohibit such trading only if the bear was killed within that State. It hardly takes a lawyer to quickly find the loophole in such a law, poachers and black market profiteers can simply kill a bear in another State and take it back across State lines to sell the parts. And because it is almost impossible to tell where a bear was killed just by looking at its parts, traders and smugglers can always claim that the bear was killed out of State. So, as you can see, our conflicting web of State laws does little to deter poachers from their prey. In fact, the confusing labyrinth of laws may make it easier for poachers to slaughter still more bear.

To help bring the complex, sometimes criminal, and inhumane trade in bear parts to an end, I am once again introducing the Bear Protection Act. This legislation always has enjoyed broad, bipartisan support since I first introduced the bill in the 103rd Congress. Last year the bill passed this chamber by unanimous consent, only to be returned by the House under the blue-slip rule. I am proud to be joined by 25 original cosponsors of the bill today, including 14 Democrats, 10 Republicans and an Independent, and I hope that others soon will join me to help shepherd this important legislation to passage.

My legislation is straightforward. It prohibits the import, export, or sale of bear viscera, or any products containing bear viscera, and it imposes criminal and civil penalties for violators. Enacting a uniform Federal prohibition on the trade in bear parts is necessary to close the loopholes left open by the patchwork of State laws that have facilitated the illegal trade of bear parts in the United States and overseas.

This legislation will in no way affect the rights of sportsmen to hunt bears legally in any State. Illegal bear poaching and legal recreational hunting are separate and distinct acts. Indeed, we should remember that every bear poached for illegal profiteering of bear parts is a bear taken away from sportsmen. A former chief enforcement officer for the United States Fish and Wildlife Service has estimated that approximately 40,000 bears are hunted legally each year, but an almost equal number are poached illegally. Many States understand this problem, as over two-thirds of the States that allow bear hunting also ban the trade of bear parts.

This bill is another example of what I like to call consensus conservation. The legislation does not pit hunters against environmentalists. Nor does it pit States against the heavy hand of the Federal Government on wildlife management or sporting laws. Indeed, I am happy to report that there are no political fireworks in this bill. One look at the cosponsor list should indicate that.

Instead, what we have is a bill that targets a specific legislative goal, to protect bears from illegal and inhumane poaching and black market profiteering. By carefully crafting this legislation with that single goal in mind, we have an opportunity to pass a common sense bill that is supported by wildlife enthusiasts and conservationists while protecting the autonomy of states and the rights of sportsmen.

I continue to believe that these types of targeted, bipartisan conservation efforts that are rooted in consensus goals, rather than conflicting politics, can, in the end, make the most noticeable strides toward protecting our national wildlife and environmental treasures.

I ask unanimous consent that the text of the bill be printed in the RECORD, and I further ask unanimous consent that the RECORD include letters of support from the Humane Society of the United States, the Society for Animal Protective Legislation, and the American Zoo and Aquarium Association.

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

S. 1125

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 ''Bear Protection Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) all 8 extant species of bear—Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear—are listed on Appendix I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(2)(A) Article XIV of CITES provides that Parties to CITES may adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of species listed on Appendix I or II; and

(B) the Parties to CITES adopted a resolution in 1997 (Conf. 10.8) urging the Parties to take immediate action to demonstrably reduce the illegal trade in bear parts;

(3)(A) thousands of bears in Asia are cruelly confined in small cages to be milked for their bile; and

(B) the wild Asian bear population has declined significantly in recent years as a result of habitat loss and poaching due to a strong demand for bear viscera used in traditional medicines and cosmetics;

(4) Federal and State undercover operations have revealed that American bears have been poached for their viscera;

(5) while most American black bear populations are generally stable or increasing, commercial trade could stimulate poaching and threaten certain populations if the demand for bear viscera increases; and

(6) prohibitions against the importation into the United States and exportation from the United States, as well as prohibitions against the interstate trade, of bear viscera and products containing, or labeled or advertised as containing, bear viscera will assist in ensuring that the United States does not contribute to the decline of any bear population as a result of the commercial trade in bear viscera.

SEC. 3. PURPOSES.

The purpose of this Act is to ensure the long-term viability of the world's 8 bear species by—

(1) prohibiting interstate and international trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera;

(2) encouraging bilateral and multilateral efforts to eliminate such trade; and

(3) ensuring that adequate Federal legislation exists with respect to domestic trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera.

SEC. 4. DEFINITIONS.

In this Act:

(1) BEAR VISCERA.—The term ''bear viscera'' means the body fluids or internal organs, including the gallbladder and its contents but not including the blood or brains, of a species of bear.

(2) CITES.—The term ''CITES'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(3) IMPORT.—The term ''import'' means to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, regardless of whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(4) PERSON.—The term ''person'' means—

(A) an individual, corporation, partnership, trust, association, or other private entity;

(B) an officer, employee, agent, department, or instrumentality of—

(i) the Federal Government;

(ii) any State or political subdivision of a State; or

(iii) any foreign government; and

(C) any other entity subject to the jurisdiction of the United States.

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

(6) STATE.—The term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

(7) TRANSPORT.—The term ''transport'' means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

SEC. 5. PROHIBITED ACTS.

(a) IN GENERAL.—Except as provided in subsection (b), a person shall not—

(1) import into, or export from, the United States bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera; or

(2) sell or barter, offer to sell or barter, purchase, possess, transport, deliver, or receive, in interstate or foreign commerce, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera.

(b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT PURPOSES.—A person described in section 4(4)(B) may import into, or export from, the United States, or transport between States, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera if the importation, exportation, or transportation—

(1) is solely for the purpose of enforcing laws relating to the protection of wildlife; and

(2) is authorized by a valid permit issued under Appendix I or II of CITES, in any case in which such a permit is required under CITES.

SEC. 6. PENALTIES AND ENFORCEMENT.

(a) CRIMINAL PENALTIES.—A person that knowingly violates section 5 shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(b) CIVIL PENALTIES.—

(1) AMOUNT.—A person that knowingly violates section 5 may be assessed a civil penalty by the Secretary of not more than $25,000 for each violation.

(2) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this subsection shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

(c) SEIZURE AND FORFEITURE.—Any bear viscera or any product, item, or substance imported, exported, sold, bartered, attempted to be imported, exported, sold, or bartered, offered for sale or barter, purchased, possessed, transported, delivered, or received in violation of this section (including any regulation issued under this section) shall be seized and forfeited to the United States.

(d) REGULATIONS.—After consultation with the Secretary of the Treasury and the United States Trade Representative, the Secretary shall issue such regulations as are necessary to carry out this section.

(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

SEC. 7. DISCUSSIONS CONCERNING BEAR CONSERVATION AND THE BEAR PARTS TRADE.

In order to seek to establish coordinated efforts with other countries to protect bears, the Secretary shall continue discussions concerning trade in bear viscera with—

(1) the appropriate representatives of Parties to CITES; and

(2) the appropriate representatives of countries that are not parties to CITES and that are determined by the Secretary and the United States Trade Representative to be the leading importers, exporters, or consumers of bear viscera.

SEC. 8. CERTAIN RIGHTS NOT AFFECTED.

Except as provided in section 5, nothing in this Act affects—

(1) the regulation by any State of the bear population of the State; or

(2) any hunting of bears that is lawful under applicable State law (including regulations).

HSUS STATEMENT IN SUPPORT OF THE BEAR PROTECTION ACT

The Humane Society of the United States, the nation's largest animal protection organization with over seven million members and constituents, strongly supports Senator McConnell's Bear Protection Act.

The Bear Protection Act would eliminate the patchwork of state laws in the U.S. and improve protection of America's bears. Thirty-four states already ban commerce in bear viscera. The remaining states fall into three categories: six allow trade in gallbladders taken from bears legally killed in-state; eight allow trade in gallbladders from bears killed legally outside the state; and two states do not have pertinent laws. This current patchwork of state laws creates loopholes that are exploited by those engaged in the bear parts trade. The loopholes enable poachers to launder gallbladders through states that permit their sale. The Bear Protection Act would eliminate this patchwork of state laws, replacing it with one national law prohibiting import, export, and interstate commerce in bear viscera.

Bear viscera, particularly the gallbladder and bile, have been traditionally used in Asian medicines to treat a variety of illnesses, from diabetes to heart disease. Today, bear viscera is also used in cosmetics and shampoos. Asian demand for bear viscera and products has increased with growing human populations and increased wealth. Bear gallbladders in South Korea are worth more than their weight in gold, potentially yielding a price of about $10,000 each.

While demand for bear viscera and products has grown, Asian bear populations have dwindled. Seven of the eight extant species of bears are threatened by poaching to supply the increasing market demand for bear viscera and products. Most species of bears, and all Asian bear species, are afforded the highest level of protection under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES has noted that the continued illegal trade in bear parts and derivatives of bear parts undermines the effectiveness of the Convention and that if CITES parties do not take action to eliminate such trade, poaching may cause declines of wild bears that could lead to the extirpation of certain populations or even species.

Dwindling Asian bear populations have caused poachers to look to American bears to meet market demand for bear parts and products. While each year nearly 40,000 American black bears are legally hunted in thirty-six states and Canada, it is estimated that roughly the same number are illegally poached each year, according to a former chief law enforcement officer with the U.S. Fish and Wildlife Service.

The U.S. Senate passed this legislation in the 106th Congress and we hope swift action will be taken again this year. We also hope that the House will follow the Senate's wise lead and act to protect bears across the globe before it's too late. The Humane Society of the United States applauds Senator McConnell and the quarter of the United States Senate that has signed onto the Bear Protection Act as original cosponsors. With Senator McConnell's leadership, there may come a day when bear poachers and bear parts profiteers no longer are able to ply their cruel trade unpunished.

BEAR PROTECTION ACT IS URGENTLY NEEDED

The Society for Animal Protective Legislation strongly supports Senator Mitch McConnell in his effort to pass the Bear Protection Act once again. This bill would end the United States' involvement in the trade of bear viscera by prohibiting the import, export and interstate commerce in bear gallbladders and bile. Bears are targeted for their internal organs, which fetch enormous profits for the poachers who illegally kill them and the merchants who sell their organs for use in traditional medicine remedies.

The insatiable, growing demand for bear viscera contributed mightily to the decimation of the Asiatic black bear and may do the same to the stable population of American black bears if a law is not passed to eliminate the United States' role in supplying this devastating bear parts trade.

There is a price on the head of every bear in this country and Senator Mitch McConnell deserves high praise for introducing proactive legislation protecting bears from the looming threat of the gallbladder trade.

The current patchwork of state laws addressing the trade in bear gallbladders and

bile allows an illegal trade to flourish. It is impossible to distinguish visually the dissociated gallbladder of one state's black bear from another. This enables smugglers to acquire gallbladders illegally in one state, transport them to a state where commercialization of bear parts is legal, and sell the gallbladders under false pretenses. These gallbladders are also smuggled out of the country, providing a laundering opportunity for the sale of gallbladders from highly endangered bears.

Enactment of Senator McConnell's Bear Protection Act will ensure that those who seek to profit by the reckless destruction of America's bears can be punished appropriately for their illegal and immoral activity.

Mr. McConnell's bill does not impact a state's ability to manage its resident bear population or a lawful hunter's ability to hunt bears in accordance with applicable state laws and regulations. The Bear Protection Act is not about bear hunting—it's about ending bear poaching. This is a laudable goal that all Americans should support.

American citizens should not sit by helplessly while bears are slaughtered, their gallbladders ripped out and the carcass unceremoniously left to rot. It's time to take a stand against bear poachers and profiteers. Congratulations to Senator McConnell for taking up the charge.

AMERICAN ZOO AND AQUARIUM ASSOCIATION,
Silver Spring, MD, June 26, 2001.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: I am writing on behalf of the 196 accredited members of the American Zoo and Aquarium Association (AZA) in support of your proposed Bear Protection Act of 2001.

AZA institutions draw over 135 million visitors annually and have more than 5 million zoo and aquarium members who provide almost $100 million in support. Collectively, these institutions teach more than 12 million people each year in living classrooms, dedicate over $50 million annually to education programs, invest over $50 million annually to scientific research and support over 1,300 field conservation and research projects in 80 countries.

In addition, AZA member institutions have established the Species Survival Plan (SSP) program—a long-term plan involving genetically-diverse breeding, habitat preservation, public education, field conservation and supportive research to ensure survival for many threatened and endangered species. Currently, AZA member institutions are involved in 96 different SSP programs throughout the world, including four species of bear—sloth, sun, spectacled and the giant panda.

It is in this context that AZA expresses its support for the Bear Protection Act. There is little question that most populations of the world's eight bear species have experienced significant declines during this century, particularly in parts of Europe and Asia. Habitat loss has been the major reason for this decline, although overhunting and poaching have also been factors in some cases, especially in Asia. In recent years, the commercial trade of bear body parts, in particular gallbladders and bile, for use in traditional Asian medicines has been implicated as the driving force behind the illegal hunting of some bear populations. Analyses by the US Fish and Wildlife Service (USFWS), TRAFFIC and other organizations have documented the existence of illicit commercial markets and smuggling rings for bear body parts.

Recent information suggests that this is not only an overseas issue but a domestic one as well. The American black bear is listed on Appendix II of CITES due to the similarity of appearance to other listed bear species, and conservation and management of black bear populations remains largely in the hands of the states. Most states prohibit commercial trade in bear parts but there are some states that still allow commercial trade of products from bears taken within their borders. Several other states do not explicitly prohibit the commercial trade in parts from bears taken within the borders of other jurisdictions. This has raised concerns that inconsistent state laws may facilitate illegal trade and laundering of bear parts.

The relatively high value of the wild bear parts, particularly viscera, on the international market warrants that continued action be taken to minimize the threat or potential threat of illegal trade. Your bill provides the necessary first step for closing the potential loopholes that are afforded to bear poachers and dealers by fragmented state laws. Equally important, the bill encourages dialogue between the U.S. and countries known to be leading importers, exporters, and consumers of bear viscera in an attempt to coordinate efforts to protect threatened and endangered bear populations worldwide.

AZA applauds your efforts in this important wildlife conservation matter. In addition, AZA stands ready to work with you to ensure that the necessary funds are authorized and appropriate for the effective administration and enforcement of this critical work.

Please feel free to contact AZA if you have any question or comments.

Regards,

SYDNEY J. BUTLER,
Executive Director.

By Mr. BROWNBACK (for himself and Mr. ENZI):

S. 1126. A bill to facilitate the deployment of broadband telecommunications services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK (for himself and Mr. ENZI):

S. 1127. A bill to stimulate the deployment of advanced telecommunications services in rural areas, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BROWNBACK. Mr. President, next week our nation will celebrate Independence Day. Yet, as we celebrate the land of opportunity that is America, we must keep in mind those who, even in this great nation, do not have the same opportunities as everyone else. In rural communities across the nation, an entire segment of our population does not have the opportunity to access powerful broadband communications services representing the high-speed, high-capacity on-ramps to the information super highway. Why? Because for all intents and purposes broadband does not exist in most of rural America.

Broadband is increasing the speeds and capacity with which consumers and businesses alike access the Internet, and opening up a whole new world of information, e-commerce, real-time high quality telemedicine, distance learning, and entertainment. The power of broadband will level the playing field between rural and urban communities in a global economy.

Today I rise to introduce the Rural Broadband Deployment Act of 2001 and the Broadband Deployment and Competition Enhancement Act of 2001. Two bills designed to ensure that all Americans have access to the advantages of broadband connections. I would like to thank my colleague from Wyoming, Senator ENZI, for his cosponsorship and support. These two bills, together or individually, will ensure broadband deployment in our nation's rural areas, and will enable us to renew our longstanding commitment that rural communities have access to the same telecommunications resources as urban communities.

My singular objective, in both bills, is high-speed Internet access for everybody in America by 2007.

This is a bipartisan objective. The Democratic party has announced its intention to ensure universal access to broadband by the end of this decade. I commend my colleagues on the other side of the aisle for their recognition of the importance of broadband and I look forward to working with them to achieve our common goal.

New approaches will be needed to achieve universal broadband availability. Some of my colleagues have introduced legislation consisting of tax incentives or loan subsidies. Programs such as these can help to deliver on the commitment to make broadband universally available, but these proposals alone will not achieve that goal. Deregulation has a key role to play in this effort.

Deregulation has been the driver of broadband deployment to date: cable companies, largely deregulated by the 1996 Telecommunications Act, have invested almost 50 billion dollars in upgrades to their networks. These upgrades have in turn enabled them to deploy broadband, and cable companies now serve 70 percent of the broadband market. Satellite companies, also unregulated in the broadband market, are deploying one-way high-speed Internet access and are working to deploy two-way broadband services. Some companies are utilizing wireless cable licenses to deploy broadband, and they too are unregulated in the broadband market.

Deregulation is a powerful motivator for the deployment of new technologies and services. Unregulated small cable companies, and all but unregulated rural and small telephone companies are taking advantage of their regulatory status to deliver broadband to rural consumers.

The broadband market, distinct from the local telephone market, is new. Yet, federal and State regulators are placing local telephone competition regulations on broadband-specific facilities deployed by incumbent local exchange carriers, ILECs, the only regulated broadband service providers, as if they were part and parcel of their local telephone service. This is simply not the case. The local telephone market is not synonymous with the broadband market. The disparate regulatory treatment of phone companies deploying broadband and all other broadband service providers is serving to deny broadband to many rural communities.

Broadband facilities being deployed by ILECs throughout our cities and towns require billions of dollars of capital investment in new infrastructure that must be added to the existing telephone network. The sparse populations of rural communities already diminish the return on infrastructure investment so that, when combined with local telephone market regulations, ILEC broadband deployment has not proven to be cost effective.

As a result, rural telephone exchanges owned by regulated telephone companies are not being upgraded for broadband services even while unregulated companies seem to be capable of making that substantial investment. In Wellington, Kansas, a rural community with around 10,000 residents, a small unregulated cable company called Sumner Cable has deployed broadband service. Yet, Southwestern Bell, the local regulated telephone company and a Bell operating company, is not deploying broadband. Different regulatory treatments of these companies creates the incentive for one to deploy broadband, but not the other. This is being seen throughout our nation's rural communities, and is particularly disappointing. The Bell operating companies serve approximately 65 percent of rural telephone lines like those found in Wellington.

Broadband is certainly being deployed at a much faster rate in urban markets than rural markets. But that does not mean all is well in our nation's cities. Today, broadband deployment in urban markets is being characterized by the market dominance of the cable TV industry, unregulated in the broadband market, which serves approximately 70 percent of all broadband subscribers. This is good for consumers. Cable companies have taken full advantage of their deregulated status, and the inherent economic incentives, to deploy new technologies and provide new services to consumers. But while the cable industry finishes rebuilding its entire infrastructure with digital technology that permits it to offer broadband, ILECs are, in many instances, not making the same investment to rebuild their infrastructure.

The Broadband Deployment and Competition Enhancement Act of 2001 promotes broadband deployment in rural markets by requiring ILECs to deploy to all of their telephone exchange subscribers within 5 years. In exchange, ILEC broadband services are placed on a more level-playing field with their broadband competitors. This is achieved by deregulating only those new technologies added to the local telephone network that make broadband possible over telephone lines. By permitting ILECs to compete on a level playing field with their broadband competitors in their urban markets, we can create the proper balance between requirements and incentives.

The limited deregulation in this legislation will not affect competition in the local telephone market. CLECs will still have access to the entire legacy telephone network to use as they see fit, and they will still be permitted to combine their own broadband equipment with the telephone network to compete in the broadband market. In those parts of the local telephone network where new network architecture must be deployed to make broadband possible, CLECs are free to add their own facilities to the network so they can compete for every potential broadband subscriber in a market.

In Kansas, we have many farms and small rural communities. I grew up on a farm near Parker, Kansas. My hometown has 250 people. My singular goal in introducing this legislation is to facilitate rural broadband deployment. Given the importance of ensuring broadband is deployed in rural communities, I have elected to introduce two different bills on the same issue. I am willing to pursue either approach depending on which one will get us to the day of ubiquitous broadband.

It seems clear that, no matter how worthy broad-based deregulation is in the broadband market, any such effort must navigate through the typical back and forth between the baby Bells, long distance companies, and now CLECs. If a more limited approach can avoid the traditional ''phone wars'' then I am happy to put forth such an alternative.

The Rural Broadband Deployment Act of 2001 is a more geographically limited approach to spurring broadband deployment. It includes broader deregulation of ILEC broadband services, but limits that deregulation only to rural communities. By ramping up the deregulation, yet restricting the size of the market where that deregulation is applied, it is my intention to create the same balance of requirements that I previously mentioned.

I realize that introducing two pieces of legislation on the same issue on the same day is a bit unorthodox. But given the clear need and importance of universal broadband, I feel it is my duty to do anything I can to move this debate forward. Providing alternatives for the consideration of my colleagues is part of this process.

I urge my colleagues to give consideration to either of these bills, and I urge your cosponsorship.

Mr. ENZI. Mr. President, I rise as an original cosponsor of Senator BROWNBACK's Broadband Deployment and Competition Enhancement Act of 2001. I thank my colleague from Kansas for drafting this innovative legislation to help solve the problem of the lack of availability of advanced telecommunications services in rural areas.

Telecommunications has come a long way from the days of the party line and operator assisted calls. Telecommunications services have allowed entrepreneurs to locate their business anywhere they can get a dial tone and have helped to bring jobs to rural America. I have been working to encourage more infrastructure development as a way of creating a business environment that will attract new jobs to the places that need them.

The 20th Century has seen the economy of the United States and the world change from an industrial economy to an information economy. We are only at the beginning of the ''Information Revolution'' and now is the best time for private industry and government to take a pro-active role in helping to create the business and regulatory conditions necessary to encourage the widespread deployment of advanced telecommunications services.

Since 1995, the State of Wyoming has been attempting to create a competitive local phone market that would have a multitude of competitors and result in lower rates. The cost of providing service in Wyoming is significantly higher than in other areas of the Nation due to our low population and long distances between towns. This has caused many companies to pass Wyoming by in search of easier profits in urban areas and leave many of our towns with only one choice for broadband service, if they have a provider at all.

One of the reasons why advanced services have been slowly deployed is that Wyoming's wide open spaces make the telecommunications needs of our residents very different than people in urban areas. The economic model of the industry is to serve areas with a high population density in order to keep costs low. In the West, it's harder to make that model work, but the independent telephone companies, Qwest and the cable companies are working hard to offer their customers a full complement of services at a reasonable price, many services that urban telephone customers take for granted.

High speed Internet access has been delayed for two reasons, cost and availability. Advanced telecommunications

services can help to build Wyoming's economy. Companies are beginning to realize that our State has a ready work force and the lower costs of doing business are making companies choose Wyoming. Many existing businesses are taking advantage of the Internet to bring their products and services to the world. Where once a store was limited to only being able to serve those within driving distance of it, now it can bring Wyoming to the world. This cannot take place without the continued roll out of broadband business services.

Wyoming has for many years been promoting the benefits of telecommuting. People living around the State have been able to connect to their office via computer and remain in contact with clients. Telecommuting now requires high speed access and that is available in some limited areas. In other areas, the only data access is via a regular dial-up modem. There are companies that are deploying digital subscriber lines and cable modems, but those locations are limited and the price is too high to be adopted by a majority of Wyoming residents. Over time that price will come down, but this is not a call for public subsidies or government mandates, but a call for more competition and deregulation. Competition will bring lower prices and greater deployment of services to even the smallest of towns.

That is why I am an original cosponsor of Senator BROWNBACK's bill. His bill creates a deregulatory regime that is backed by specific performance requirements and strong enforcement provisions.

The bill requires Incumbent Local Exchange Carriers, ILEC's, to be able to provide advanced services to all of its customers within 5 years of the enactment of this legislation in order to receive the benefits of deregulation. This ensures that companies will bring advanced services and competition to rural areas by giving a hard deadline for companies to complete their buildout.

Advanced services would be deregulated by exempting them from the requirements that ILECs make packet switching and fiber available to competitors at below cost rates. This would specifically deregulate the equipment that makes it possible to provide advanced services over traditional phone lines. The bill also exempts fiber optic lines owned by ILECs from below cost pricing if the fiber is deployed either to the home or in areas that never had telephone infrastructure before. I believe that this will be key to making the economics of rural advanced services more favorable for companies wanting to invest in rural broadband deployment.

The bill would also give ILECs the necessary pricing flexibility for their broadband services. I believe that we should not hamstring a new technology in a very competitive marketplace with outdated regulations on price. It is important that Congress ensure that in addition to the wholesale pricing relief contained in this legislation, it also includes retail pricing flexibility to further make the economics more favorable.

The bill does not change the requirements that ILECs allow competitors to collocate their equipment in an ILEC facility. Collocation is very important since it ensures that competitors have access to the network and do not have to build distant links or other connections to the ILEC network.

The bill also does not eliminate the requirement that ILECs give competitors access to local loops. In fact, if an ILEC does not grant a competitor access to local lines the bill gives state regulators the right to strip the ILEC of the deregulatory benefits contained in the bill.

The bill's enforcement provisions are very strong and explicit. If a company does not meet the build-out requirement, does not permit a competitor to collocate and/or grant competitors access to local loops, state regulators have the authority to return an ILEC to the old regulatory regime. Deregulation without proper enforcement mechanisms does not benefit consumers and competitors. It is important that we hold ILECs accountable if they are granted relief from the pricing requirements.

I have been working with my colleagues to create a mix of deregulation and incentives to encourage private infrastructure development. Government cannot force private firms to make unprofitable investments, but government can work to make investments in rural infrastructure more favorable. The Broadband Deployment and Competition Investment Act helps to make investment in advanced services in rural areas possible.

The great strides made by both Qwest, the smaller phone companies and the cooperatives show that rural areas can support fiber optic based services. The Wyoming Equality Network, the fiber based network linking all of Wyoming's high schools, has been a great advancement for education and I applaud the State's foresight for undertaking such a far reaching project. The WEN has had the added effect of showing other companies that it is possible to link rural areas with fiber, bringing high speed data services and other advanced services to homes and businesses.

I am pleased to see that Qwest and several smaller companies have worked together to close the inter-office fiber loop, linking all local phone exchanges with a fiber optic connection. This will allow for greater capacity and new services like DSL and other high speed broadband services. This connection will help many areas of Wyoming overcome many of the service problems they have been experiencing for the last several years.

The objective of telecommunications policy should be to bring as many players into the marketplace and allow them to compete in the marketplace. Congress should not tie a company's hands in a continually changing and competitive marketplace. We should ensure that all parties are on a level playing field and that all services are regulated in the same manner regardless of the company that is offering the service or the technology they are using. This legislation will help bring some needed consistancy to the regulation of advanced services and I urge my colleagues to support this vital legislation.

By Mr. WARNER:

S. 1129. A bill to increase the rate of pay for certain offices and positions within the executive and judicial branches of the Government, respectively, and for other purposes; to the Committee on Governmental Affairs.

Mr. WARNER. Mr. President, I am pleased to introduce legislation today to provide relief from the pay compression affecting career Federal employees serving in the Senior Executive Service, SES. It is nearing a decade since Senior Executive Service members have seen a meaningful adjustment in pay.

The salaries earned by these employees are, on average, well below those earned by their peers in private industry. Pay caps for the Senior Executive Service and certain other positions in the government are tied to the Executive Schedule which includes senior level officials as well as Members. Pay freezes for positions on the Executive Schedule in five of the past eight years has resulted in pay compression so severe that 60 percent of the entire executive corps earns essentially the same salary despite differences in obligation and executive level. Over the past eight years, pay increases for these executives would average 1 percent per year. There is not much of an incentive to accept a higher position with added responsibilities and increased work hours for little or no increase in pay.

Many senior executives leave Federal service to begin second careers in the private sector because of the salary compression. Others find that retirement is a more sensible option, whereas Federal annuitants receive an average two and a half percent cost of living adjustment every year compared to the average one percent per year pay increase a senior executive may receive if she or he remained in Federal service.

I have heard from many SES employees relating their own stories as to how the problem of pay compression has affected them. I would like to share a few of these personal accounts.

From an ES–6 with the Department of Defense: ''My pay has been capped and I have not been receiving raises. This year I received a surprise. I turned 55 and I subsequently experienced a $115.16 decrease in pay in January because my life insurance increased considerably, along with the contribution to retirement increase. Age 55 is not old! I expect to work a few more years and I expect my pay to increase so that I can enjoy my retired years with a reasonable retirement income that has not been eroded by the pay cap.''

A Senior Executive at the Department of Health and Human Services: ''The highest career Deputy General Counsel position in my agency became vacant, and I was called by the General Counsel to seriously consider taking it. Aside from the many family issues involved in any move to Washington, an overriding aspect is the fact that I am already at the pay cap. Thus, a move into a position with more responsibility would provide no financial incentive. Although I'm obviously not in government serve for any huge financial rewards, I don't want to go backward financially. Thus, I have decided to forgo this very challenging opportunity that would be a fitting pinnacle to my career with the Federal Government.''

Private Contractor, Department of Defense: ''I turned down a job at the US Nuclear Command and Control System Support Staff, where I'd been stationed on active duty as a Regular Air Force Officer. I retired from the NSS four years ago after over 23 years in the Air Force, and was honored to get offered a Civil Service position back at the office. Instead, I reluctantly turned down the job. The reason was primarily monetary. In order to take the job, it would have been necessary to give up part of my Air Force retirement pay because I retired as a regular officer. To make matters worse, my pay would have been capped. The bottom line is I would have taken a pay cut with no prospect of a pay raise in the foreseeable future. My family and I were asked to sacrifice pay and time together which we willingly did for over 23 years. Instead, I'm supporting the government in the role of a private sector contractor, where I'm fairly compensated for my expertise.''

These are just a few examples which illustrate how the freeze on executive pay and resulting pay compression have seriously eroded the government's ability to attract and retain the most highly-competent career executives. This is a very timely issue for the Federal Government, seventy percent of the SES corps is eligible to retire over the next four years and almost half are expected to retire upon eligibility. Agencies are being forced to make special requests to increase salaries for their managers and supervisors. They recognize that when someone leaves Federal service, their knowledge and experience goes with them.

The legislation I am introducing increases base pay for Senior Executives from Executive Level IV to Executive Level III, extends locality pay to the Executive Schedule, increases the locality cap from Executive Level III to Executive Level III plus locality pay, and increases the overall limit on compensation that can be received in a single year by career executives from Executive Level I to the Vice-Presidential level. The bill also includes certain positions in the Federal judiciary which have been impacted by the pay caps. The actual raises career executives would receive would continue to be determined at the President's discretion.

The legislation does not, in and of itself, raise senior executive pay and does not increase the salaries of Members of Congress.

It is also my intention to ensure that this issue remains a priority for the incoming Director at the Office of Personnel Management. During the confirmation hearing before the Senate Governmental Affairs Committee last week for Mrs. Kay Coles James, President Bush's nominee to head the Office of Personnel Management, Mrs. James indicated her willingness to work with Members to address the problem of pay compression.

Pay compression within the Senior Executives Service is one of the more pressing issues facing the Federal employee workforce and must be addressed as the situation will only get worse. The only means to alleviate pay compression for the Senior Executives at this time is through legislation. Therefore, I encourage my Senate colleagues to support the bill.

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. 1129

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

SECTION 1. PROVISIONS RELATING TO CERTAIN OFFICES AND POSITIONS WITHIN THE EXECUTIVE BRANCH.

(a) EXECUTIVE SCHEDULE PAY RATES.—

(1) IN GENERAL.—Section 5318 of title 5, United States Code, is amended—

(A) by redesignating subsection (a) as subsection (a)(1) and subsection (b) as paragraph (2); and

(B) by adding at the end the following:

''(b)(1)(A) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which any comparability payment becomes payable under section 5304 or 5304a with respect to General Schedule employees within the District of Columbia during any year, the annual rate of pay for positions at each level of the Executive Schedule (exclusive of any previous adjustment under this subsection) shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next highest multiple of $100) equal to the percentage of such annual rate of pay which corresponds to the percentage adjustment becoming so payable with respect to General Schedule employees within the District of Columbia under such section 5304 or 5304a (as applicable).

''(B) If an adjustment under this subsection is scheduled to take effect on the same date as an adjustment under subsection (a), the adjustment under subsection (a) shall be made first.

''(2) An annual rate of pay, as adjusted under paragraph (1), shall for all purposes be treated as the annual rate of pay for the positions involved, except as otherwise provided in subsection (a), paragraph (1), or any other provision of law.

''(3) Nothing in this subsection shall be considered to permit or require the continuation of an adjustment under paragraph (1) after the comparability payment (for General Schedule employees within the District of Columbia) on which it was based has been terminated or superseded.''.

(2) CONTRACT APPEALS BOARD MEMBERS.—Section 5372a of title 5, United States Code, is amended—

(A) in subsection (b)(2) by striking ''97 percent of the rate under paragraph (1)'' and inserting ''no less than 97 percent of the rate under paragraph (1)'';

(B) in subsection (b)(3) by striking ''94 percent of the rate under paragraph (1)'' and inserting ''no less than 94 percent of the rate under paragraph (1)''; and

(C) by adding at the end the following:

''(d) Subject to subsection (b), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of basic pay under the General Schedule, each rate of basic pay for contract appeals board members shall be adjusted by an amount determined by the President to be appropriate.''.

(3) CONFORMING AMENDMENTS.—Section 5318 of title 5, United States Code, is amended—

(A) in the first sentence of subsection (a)(1) (as redesignated)—

(i) by striking ''Subject to subsection (b),'' and inserting ''Subject to paragraph (2),''; and

(ii) by inserting ''(exclusive of any previous adjustment under subsection (b))'' after ''Executive Schedule''; and

(B) in subsection (a)(2) (as redesignated), by striking ''subsection (a)'' and inserting ''paragraph (1)''.

(b) AMENDMENTS RELATING TO CERTAIN LIMITATION AND OTHER PROVISIONS.—

(1) PROVISIONS TO BE APPLIED BY EXCLUDING EXECUTIVE SCHEDULE COMPARABILITY ADJUSTMENT.—Sections 5303(f), 5304(h)(1)(F), 5306(e), and 5373(a) of title 5, United States Code, are each amended by inserting '', exclusive of any adjustment under section 5318(b)'' after ''Executive Schedule''.

(2) LIMITATION ON CERTAIN PAYMENTS.—Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the case of an employee who is receiving basic pay under section 5372a, 5376, or 5383, paragraph (1) shall be applied by substituting 'the annual rate of salary of the Vice President of the United States' for 'the annual rate of basic pay payable for level I of the Executive Schedule'. Regulations under subsection (c) may extend the application of the preceding sentence to other equivalent categories of employees.''.

(3) REFERENCES TO LEVEL IV OF THE EXECUTIVE SCHEDULE.—Sections 5372(b)(1)(C), 5372a(b)(1), 5376(b)(1)(B), and 5382(b) of title 5,

United States Code, are each amended by striking ''level IV'' each place it appears and inserting ''level III''.

SEC. 2. PROVISIONS RELATING TO CERTAIN OFFICES AND POSITIONS WITHIN THE JUDICIAL BRANCH.

(a) INCREASE IN MAXIMUM RATES OF BASIC PAY ALLOWABLE.—

(1) FOR POSITIONS COVERED BY SECTION 604(a)(5) OF TITLE 28, UNITED STATES CODE.—Section 604(a)(5) of title 28, United States Code, is amended by striking ''by law'' and inserting ''by law (except that the rate of basic pay fixed under this paragraph for any such employee may not exceed the rate for level IV of the Executive Schedule)''.

(2) FOR CIRCUIT EXECUTIVES.—Section 332(f)(1) of title 28, United States Code, is amended by striking ''level IV of the Executive Schedule pay rates under section 5315'' and inserting ''level III of the Executive Schedule pay rates under section 5314''.

(3) FOR PERSONNEL OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—

(A) IN GENERAL.—Section 3(a) of the Administrative Office of the United States Courts Personnel Act of 1990 (28 U.S.C. 602 note) is amended—

(i) in paragraph (1), by striking ''level V'' and inserting ''level IV''; and

(ii) in paragraph (10), by striking ''level IV'' and inserting ''level III''.

(B) PROVISIONS RELATING TO CERTAIN ADDITIONAL POSITIONS.—Section 603 of title 28, United States Code, is amended by striking ''level IV of the Executive Schedule under section 5315'' and inserting ''level III of the Executive Schedule under section 5314''.

(b) SALARY OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 603 of title 28, United States Code, is amended by striking ''district'' and inserting ''circuit''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective with respect to pay periods beginning on or after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mrs. FEINSTEIN, and Mr. CORZINE):

S. 1130. A bill to require the Secretary of Energy to develop a plan for a magnetic fusion burning plasma experiment for the purpose of accelerating the scientific understanding and development of fusion as a long term energy source, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, today I am introducing a bill of great significance to our energy future, the Fusion Energy Sciences Act of 2001. I am especially pleased that my colleague from California, Senator FEINSTEIN, is joining me as the primary cosponsor of this legislation. This bill is designed to strengthen the fusion program at the Department of Energy and to accelerate planning for the next major step in fusion energy science development.

In recent months, the news has been dominated by energy concerns. Although there may be differences of opinion about the causes of our current energy problems and what the appropriate solutions might be, there is general agreement that energy forms a vital link to our economic prosperity and provides the means by which the conduct of our daily lives is made easier and more comfortable. While we grapple with short term remedies, we need to stay focused on long term investment in those endeavors which have the potential to help secure our energy future. I believe that fusion energy has this potential.

Fusion is the energy source that powers the sun and the stars. At its most basic, it is the combining or fusion of two small atoms into a larger atom. When two atomic nuclei fuse, tremendous amounts of energy are released.

If we can achieve this joining of atoms, and successfully contain and harness the energy produced, fusion will be close to an ideal energy source. It produces no air pollutants because the byproduct of the reaction is helium, it is safe and its fuel source, hydrogen, is practically unlimited and easily obtained.

In the technical community, the debate over the scientific feasibility of fusion energy is now over. During the past decade, substantial amounts of fusion energy have been created in the laboratory setting. I am proud to note that some of this underlying scientific work has been conducted at the Idaho National Engineering and Environmental Laboratory in my State, which has been selected by the Department of Energy to lead efforts on fusion safety.

Although certain scientific questions remain, the primary outstanding issue about fusion energy at this point is whether fusion energy can make the challenging step from the laboratory into a practical energy resource. Achieving this goal will require high quality science, innovative research and international collaboration, and the resources to make this possible. That is the goal to which this legislation is directed.

According to the scientific experts, the path to practical fusion will involve three steps. First, there is a need to conduct a ''burning plasma'' experiment. Second, this effort would be further developed in an engineering test facility. The third step would be a demonstration plant. If taken in series, each of these steps would take approximately fifteen years, but through international collaboration, it may be possible to accelerate this process. In addition to these steps, continued investment in a strong underlying program of fusion science and plasma physics will still be necessary.

Therefore, this bill instructs the Secretary of Energy to transmit to the Congress by July 1, 2004 a plan for a ''burning plasma'' experiment, which is the next necessary step towards the eventual realization of practical fusion energy. At a minimum, the Secretary must submit a plan for a domestic U.S. experiment, but may also submit a plan for U.S. involvement in an international burning plasma experiment if such involvement is cost effective and has equivalent scientific benefits to a domestic experiment. The bill also requires that within six months of the enactment, the Secretary of Energy shall submit a plan to Congress to ensure a strong scientific base for the fusion energy sciences program. Finally, for ongoing activities in the Department of Energy's fusion energy sciences program and for the purpose of preparing the plans called for, the bill authorizes $320,000,000 in fiscal year 2002 and $335,000,000 in fiscal year 2003.

As we suffer through near term challenges in the energy sector and meeting our immediate needs, it is more crucial than ever that we invest in those items that hold the promise for long term solutions. Recent accomplishments in the laboratory demonstrate that fusion energy has this long term potential. The Fusion Energy Sciences Act of 2001 will bring this promise closer to reality for future generations.

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. 1130

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 my be cited as the ''Fusion Energy Sciences Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) economic prosperity is closely linked to an affordable and ample energy supply;

(2) environmental quality is closely linked to energy productions and use;

(3) population, worldwide economic development, energy consumption, and stress on the environment are all expected to increase substantially in the coming decades;

(4) the few energy options with the potential to meet economic and environmental needs for the long-term future must be pursued aggressively now, as part of a balanced national energy plan;

(5) fusion energy is a long-term energy solution that is expected to be environmentally benign, safe, and economical, and to use a fuel source that is practically unlimited;

(6) the National Academy of Sciences, the President's Committee of Advisers on Science and Technology, and the Secretary of Energy Advisory Board have each recently reviewed the Fusion Energy Sciences Program and each strongly supports the fundamental science and creative innovation of the program, and has confirmed that progress toward the goal of producing practical fusion energy has been excellent;

(7) each of these reviews stressed the need for the Fusion Energy Sciences Program to move forward to a magnetic fusion burning plasma experiment, capable of producing substantial fusion power output and providing key information for the advancement of fusion science;

(8) the National Academy of Sciences has also called for a broadening of the Fusion Energy Sciences Program research base as a

means to more fully integrate the fusion science community into the broader scientific community; and

(9) the Fusion Energy Sciences Program budget is inadequate to support the necessary science and innovation for the present generation of experiments, and cannot accommodate the cost of a burning plasma experiment constructed by the United States, or even the cost of key participation by the United States in an international effort.

SEC. 3. PLAN FOR FUSION EXPERIMENT.

(a) PLAN FOR UNITED STATES FUSION EXPERIMENT.—The Secretary of Energy (in this Act referred to as 'the Secretary'), on the basis of full consultation with, and the recommendation of, the Fusion Energy Sciences Advisory Committee (in this Act referred to as ''FESAC''), shall develop a plan for United States construction of a magnetic fusion burning plasma experiment for the purpose of accelerating scientific understanding of fusion plasmas. The Secretary shall request a review of the plan by the National Academy of Sciences, and shall transmit the plan and the review to the Congress by July 1, 2004.

(b) REQUIREMENTS OF PLAN.—The plan described in subsection (a) shall—

(1) address key burning plasma physics issues; and

(2) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

(c) UNITED STATES PARTICIPATION IN AN INTERNATIONAL EXPERIMENT.—In addition to the plan described in subsection (a), the Secretary, on the basis of full consultation with, and the recommendation of, FESAC, may also develop a plan for United States participation in an international burning plasma experiment for the same purpose, whose construction is found by the Secretary to be highly likely and where United States participation is cost effective relative to the cost and scientific benefits of a domestic experiment described in subsection (a). If the Secretary elects to develop a plan under this subsection, he shall include the information described in subsection (b), and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review by the National Academies of Sciences and Engineering of a plan developed under this subsection, and shall transmit the plan and the review to the Congress no later than July 1, 2004.

(d) AUTHORIZATION OF RESEARCH AND DEVELOPMENT.—The Secretary, through the Fusion Energy Sciences Program, may conduct any research and development necessary to fully develop the plans described in this section.

SEC. 4. PLAN FOR FUSION ENERGY SCIENCES PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Secretary, in full consultation with FESAC, shall develop and transmit to the Congress a plan for the purpose of ensuring a strong scientific base for the Fusion Energy Sciences Program and to enable the experiment described in section 3. Such plan shall include as its objectives—

(1) to ensure that existing fusion research facilities and equipment are more fully utilized with appropriate measurements and control tools;

(2) to ensure a strengthened fusion science theory and computational base;

(3) to encourage and ensure that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific innovation and cost effectiveness;

(4) to improve the communication of scientific results and methods between the fusion science community and the wider scientific community;

(5) to ensure that adequate support is provided to optimize the design of the magnetic fusion burning plasma experiments referred to in section 3; and

(6) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the development and review of the plans described in this Act and for activities of the Fusion Energy Sciences Program $320,000,000 for fiscal year 2002 and $335,000,000 for fiscal year 2003.

Mrs. FEINSTEIN. Mr. President, I rise today to join my colleague, Senator LARRY CRAIG, in introducing this legislation to accelerate the development of fusion energy as a practical and realistic alternative to fossil fuels for our nation's energy needs.

I would also like to commend my colleague, Congresswoman ZOE LOFGREN, who introduced the ''Fusion Energy Sciences Act of 2001'' on the House side as H.R. 1781.

Since the beginning of the Manhattan Project, scientists have been trying to harness energy from fusion to produce electricity. This legislation will help the scientific community expedite the development of fusion as a viable option for our energy needs.

To help fusion science move from the lab to the grid, this bill fast-tracks a key experimental fusion project. This bill also authorizes $320 million for Fiscal Year 2002 and $335 million for Fiscal Year 2003 to speed up fusion's current estimated 45-year implementation timetable.

I have spoken frequently to my colleagues on California's current energy situation.

Last week the Department of Energy predicted the State will suffer from around 110 hours of rolling blackouts this summer. Experts say $21.8 billion of economic output will be lost and over 135,000 workers will lose their jobs because of this summer's blackouts.

I will continue to try to help California and the rest of the West in the short-term. Making rolling blackouts less frequent, lowering electricity costs on the wholesale market, keeping natural gas prices reasonable, and bringing new supplies of power online are the key objectives I have been working toward to bring stability to the Western Energy Market.

While I work on the short-term problems in California, I join my colleague from Idaho on this bill to develop a key long-term solution to our current energy problems.

As world populations grow, and as civilization advances, we need to pursue new energy sources beyond traditional fossil fuels.

It is no secret that fossil fuels are finite and polluting. Beyond expanding renewable energy sources such as those from the sun and the wind, fusion holds a great deal of potential to expand our nation's energy supply.

Fusion is a safe, almost inexhaustible energy source with major environmental advantages. As a co-sponsor of this legislation, I hope to see fusion move quickly from an experiment in the lab to a reality for our homes and businesses.

We have already succeeded in using scientific advancements to harness energy occurring elsewhere on our planet. Solar panels collect the sun's rays to heat pools and power homes. Windmills transfer nature's gusts into electrical currents. Water running from mountaintops to the sea can produce significant amounts of hydroelectric power.

And now, with fusion energy, we will be able to harness the power of the stars to create an almost unlimited and clean form of energy.

Fusion energy is the result of two small hydrogen atoms combining into a larger atom. The energy released from this fusion of the atoms can be harnessed to generate electricity.

Unlike nuclear power, which uses radioactive materials for fuel, fusion uses hydrogen from water. Unlike fossil fuels, which pollute the air when burned, the only byproduct in a hydrogen fusion reaction is helium, an element already plentiful in the air.

Besides being environmentally benign, fusion is a practically unlimited fuel source. In fact, scientists predict that using 1 gallon of sea water, fusion can yield the energy produced from 300 gallons of gasoline. And with fusion, 50 cups of sea water can be the energy equivalent of 2 tons of coal.

Fusion energy has been proven to be a practical energy endeavor, worthy of more investment for research and development. So just where do we go from here? How do we harness the power of the stars?

A 1999 review by the Department of Energy's task force on Fusion Energy concluded: one, substantial scientific progress has been made in the science of fusion energy; two, the budget for fusion research needs to grow; and three, a burning plasma experiment needs to be carried out.

To expedite the use of fusion to meet our energy needs, we need to strengthen the efforts already underway in fusion research and development and create new programs financed by the government.

Scientists agree that at current funding levels, fusion is approximately 45 years away from entering the marketplace as a viable energy source.

This timetable is based upon a three step process in which the scientific community can: first, carry out a burning plasma experiment; second, build a fusion energy test facility; and third,

establish a fusion demonstration plant to generate electricity.

Since practical fusion energy generation is still three stages from real implementation, the first thing we can do is fund the development of a burning plasma experiment.

This legislation will ensure this project will happen soon, carried out either by the scientific community in the United States, or in collaboration with an international effort. The bill requires the Secretary of Energy to develop a plan by 2004 for a magnetic fusion burning plasma experiment.

It is important to point out that this bill adds the burning plasma experiment in addition to, and not at the expense of, other ongoing projects.

The goal of fusion energy is to create a continually burning fuel like a fire refueling itself. Developing a magnetic fusion plasma experiment will help the scientific community demonstrate how the heat from the fusion reaction can maintain the reaction as a self-generating fuel. Strong magnetic fields allow the hydrogen plasma to be heated to high temperatures for fusion.

This legislation will help the scientific community overcome the key stumbling block to fusion development. By authorizing $320 million for Fiscal Year 2002 and $335 for Fiscal Year 2003 the fusion plasma experiment will be carried out and fusion funding that peaked in the 1970s, but has since tapered off, will be restored.

Let me just take a moment to mention where this funding is going, because it is particularly important for me to point this out.

Annual Federal funding for fusion energy has averaged around $230 million in the last few years. In Fiscal Year 2001, Congress appropriated $248.49 million for fusion research.

This money has provided approximately 1,100 jobs in California at the following U.S. Fusion Program Participant locations: UC Davis, UC Berkeley, Stanford, UCLA, UC Santa Barbara, Cal Tech, UC San Diego, UC Irvine, Occidental College, Lawrence Livermore National Lab, Sandia National Lab, Stanford Linear Accelerator Center, Lawrence Berkeley National Lab, TSI Research Inc. and General Atomics.

Despite all of the past advancements at these facilities and others, the Fusion Energy Science Advisory Committee has concluded that lack of funding is hindering the technological advance towards fusion energy development. And the Department of Energy's task force on Fusion Energy has concluded that, ''In light of the promise of fusion,'' funding remains ''subcritical.''

Currently, the international community is outpacing us on the road to realizing the myriad benefits of this new energy resource. The Japanese budget for this type of research is about 1.5 times that of the U.S., and the European budget is about 3 times greater.

It is critical that we be the leader in the renewable energy resources sector.

I urge my colleagues to join Senator CRAIG and me in supporting fusion energy as a clean, safe, and abundant energy source for our Nation's long-term energy supply.

By Mr. LEAHY:

S. 1131. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen, oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new sources review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

Mr. LEAHY. Mr. President, the Administration finally released its National Energy Policy last month. As I noted at the time, I have serious concerns about several of its recommendations, not the least of which was its proposal to build 1,300 to 1,900 new electric power plants many of them burning relatively dirty fossil fuels, while, at same time, questioning the enforcement of clean air laws that protect the public from excess power plant emissions.

Today, fossil fuel-fired power plants constitute the largest source of air pollution in the United States. Every year, they collectively emit approximately 2.2 billion tons of carbon dioxide, 13 million tons of acid rain-producing sulfur dioxide, 7 million tons of acid rain- and smog-producing nitrogen oxides, and 43 tons of highly toxic mercury.

How could pollutants still be dumped into our atmosphere at this scale? One reason that cannot be ignored is that more than 75 percent of the fossil-fuel fired power plants in the United States are still ''grandfathered,'' or exempt from modern Clean Air Act standards. When the Clean Air Act and its amendments were passed, Congress assumed that old, 1950's era power plants would be retired over time and replaced by newer, cleaner plants within 30 years. They were not. Unfortunately, utilities have kept these inefficient, pollution-prone power plants on line because they are inexpensive. Those grandfathered plants continue to burn cheap fuel and refuse to invest in emissions control technologies that protect air quality.

The continuing harm to our atmosphere, lands, waters, State economies, and public health by excess power plant emissions is well documented. In my home state of Vermont, acid deposition caused by emissions of sulfur dioxide and nitrogen oxide has scarred our forests and poisoned our streams. Emissions of mercury have contaminated our rivers and lakes to the point that statewide advisories against fish consumption are necessary to protect citizens. Emissions of greenhouse gas threaten to negatively change the climate for Vermont maple trees the source of Vermont maple syrup and other economic Vermont crops. And despite Vermont's tough air laws and small population, out-of-state particulates and smog lower our air quality, endanger our health, and ruin views of our Green Mountains.

Earlier this year, I cosponsored bipartisan legislation, the ''Clean Power Act of 2001,'' that strictly capped national power plant emissions and ended ''grandfather'' loophole exemptions. To promote rapid and reliable changes in the utility industry, that legislation also gave utilities the regulatory tools needed to make those changes with incentives for free market trading of emissions credits, a so-called ''cap-and-trade'' mechanism. I remain a supporter of the Clean Power Act of 2001 and hope it becomes key to energy policy negotiations in Congress. However, I believe we can do even more.

So today I am introducing a second piece of legislation covering power plant emissions that I also intend to promote during the energy debate. The ''Clean Power Plant and Modernization Act of 2001'' again strictly caps emissions and ends the ''grandfather'' loophole on old plants. Instead of providing utilities the incentive of free market trading, however, my bill creates strong financial incentives, in the form of accelerated tax depreciation, for older utilities that cut emissions and upgrade their plants to 45 percent to 50 percent efficiency. With current average energy efficiency of U.S. power plants at only 33 percent, this bill is another proposal that protects the environment and public health while providing the energy industry with a comprehensive and predictable set of long-term regulatory requirements.

Under this bill, mercury emissions would be cut by 90 percent, annual emissions of sulfur dioxide would be cut by more than 6 million tons beyond Phase II Clean Air Act Amendments requirements, and nitrogen oxide emissions would be cut by more than 3 million tons per year beyond Phase II requirements. This bill would also prevent at least 650 million tons of carbon dioxide emissions per year.

And this bill goes beyond emissions caps and transition incentives to recognize the emergence of energy technologies that are more environmentally sustainable. It provides substantial funding for research, development, and commercial demonstrations of renewable and clean energy technologies such as solar, wind, biomass,

geothermal, and fuel cells. It also authorizes expenditures for implementing known ways of biologically sequestering carbon dioxide from the atmosphere such as planting trees, preserving wetlands, and soil restoration.

The bill emphasizes the importance of immediately capping, if not totally eliminating, the release of mercury from power plants. In December, the EPA finally determined to regulate mercury emissions from electric utility power plants, an action I strongly commended. However, such regulations are years away, and it is uncertain what form they will take. Yet, just last year, 41 states issued more than 2,200 fish consumption advisories because of mercury contamination. Eleven states, including Vermont, issued statewide advisories. In 2000, the National Academy of Sciences confirmed the health risks of mercury, emphasizing the special vulnerability of unborn and young children. I believe we need to do something now.

As the energy landscape of our nation changes, this bill also recognizes the need to train a new national energy work force. As U.S. power plants become more efficient and more power is produced by renewable technologies, less fossil fuel will be consumed. This will have an impact on the workers and communities that produce fossil fuels. These effects are likely to be greatest for coal, even with significant deployment of clean coal technology. The bill provides funding for programs to help workers and communities during the period of transition. I am eager to work with organized labor to ensure that these provisions address the needs of workers, particularly those who may not fully benefit from retraining programs.

Finally, this bill holds the electric power industry, and Congress, accountable for any and all taxpayer dollars used to aid the transition to cleaner electric generation facilities. To assess how well clean air laws and emissions reductions are working, our nation must have robust, nationwide monitoring networks capable of generating reliable, consistent, long-term data about natural ecosystems. Networks such as the National Atmospheric Deposition Program currently provide the national data needed by scientists and Federal agencies to accurately assess the trends in pollutant deposition. Yet, over the past 30 years, these networks have struggled to survive with ever-decreasing funding. My bill provides modest appropriations for both operational support and modernization of scientific sites that are so critical to understanding of our ecosystems and our public health.

The American public overwhelmingly supports the environmental commitments that we have made since the early 1970s. It is our responsibility to preserve the environment for our children and grandchildren, and it is our duty to protect their health as well. The proposed energy policy of this administration needs to be less about drilling and more about energy efficiency and protection of air quality. This bill will, I hope, add another way in which we can ensure reliable, affordable electric power while modernizing energy efficiency and protecting our national resources.

I ask unanimous consent that the text of the bill, and the section-by-section overview of the bill be printed in the RECORD.

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

S. 1131

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Clean Power Plant and Modernization Act of 2001''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Combustion heat rate efficiency standards for fossil fuel-fired generating units.
Sec. 5. Air emission standards for fossil fuel-fired generating units.
Sec. 6. Extension of renewable energy production credit.
Sec. 7. Megawatt hour generation fees.
Sec. 8. Clean Air Trust Fund.
Sec. 9. Accelerated depreciation for investor-owned generating units.
Sec. 10. Grants for publicly owned generating units.
Sec. 11. Recognition of permanent emission reductions in future climate change implementation programs.
Sec. 12. Renewable and clean power generation technologies.
Sec. 13. Clean coal, advanced gas turbine, and combined heat and power demonstration program.
Sec. 14. Evaluation of implementation of this Act and other statutes.
Sec. 15. Assistance for workers adversely affected by reduced consumption of coal.
Sec. 16. Community economic development incentives for communities adversely affected by reduced consumption of coal.
Sec. 17. Carbon sequestration.
Sec. 18. Atmospheric monitoring.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the United States is relying increasingly on old, needlessly inefficient, and highly polluting power plants to provide electricity;

(2) the pollution from those power plants causes a wide range of health and environmental damage, including—

(A) fine particulate matter that is associated with the deaths of approximately 50,000 Americans annually;

(B) urban ozone, commonly known as ''smog'', that impairs normal respiratory functions and is of special concern to individuals afflicted with asthma, emphysema, and other respiratory ailments;

(C) rural ozone that obscures visibility and damages forests and wildlife;

(D) acid deposition that damages estuaries, lakes, rivers, and streams (and the plants and animals that depend on them for survival) and leaches heavy metals from the soil;

(E) mercury and heavy metal contamination that renders fish unsafe to eat, with especially serious consequences for pregnant women and their fetuses;

(F) eutrophication of estuaries, lakes, rivers, and streams; and

(G) global climate change that may fundamentally and irreversibly alter human, animal, and plant life;

(3) tax laws and environmental laws—

(A) provide a very strong incentive for electric utilities to keep old, dirty, and inefficient generating units in operation; and

(B) provide a strong disincentive to investing in new, clean, and efficient generating technologies;

(4) fossil fuel-fired power plants, consisting of plants fueled by coal, fuel oil, and natural gas, produce more than two-thirds of the electricity generated in the United States;

(5) since, according to the Department of Energy, the average combustion heat rate efficiency of fossil fuel-fired power plants in the United States is 33 percent, 67 percent of the heat generated by burning the fuel is wasted;

(6) technology exists to increase the combustion heat rate efficiency of coal combustion from 35 percent to 50 percent above current levels, and technological advances are possible that would boost the net combustion heat rate efficiency even more;

(7) coal-fired power plants are the leading source of mercury emissions in the United States, releasing more than 43 tons of this potent neurotoxin each year;

(8) in 1999, fossil fuel-fired power plants in the United States produced nearly 2,200,000,000 tons of carbon dioxide, the primary greenhouse gas;

(9) on average, fossil fuel-fired power plants emit approximately 2,000 pounds of carbon dioxide for every megawatt hour of electricity produced;

(10) the average fossil fuel-fired generating unit in the United States commenced operation in 1964, 6 years before the Clean Air Act (42 U.S.C. 7401 et seq.) was amended to establish requirements for stationary sources;

(11)(A) according to the Department of Energy, only 23 percent of the 1,000 largest emitting units are subject to stringent new source performance standards under section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the remaining 77 percent, commonly referred to as ''grandfathered'' power plants, are subject to much less stringent requirements;

(12) according to available scientific and medical evidence, exposure to mercury and mercury compounds is of concern to human health and the environment;

(13) according to the report entitled ''Toxicological Effects of Methylmercury'' and submitted to Congress by the National Academy of Sciences in 2000, and other scientific and medical evidence, pregnant women and their developing fetuses, women of childbearing age, children, and individuals who subsist primarily on fish are most at risk for mercury-related health impacts such as neurotoxicity;

(14) although exposure to mercury and mercury compounds occurs most frequently through consumption of mercury-contaminated fish, such exposure can also occur through—

(A) ingestion of breast milk;

(B) ingestion of drinking water, and foods other than fish, that are contaminated with methylmercury; and

(C) dermal uptake through contact with soil and water;

(15) the report entitled ''Mercury Study Report to Congress'' and submitted by the Environmental Protection Agency under section 112(n)(1)(B) of the Clean Air Act (42 U.S.C. 7412(n)(1)(B)), in conjunction with other scientific knowledge, supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and mercury concentrations in air, soil, water, and sediments;

(16)(A) the Environmental Protection Agency report described in paragraph (15) supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and methylmercury concentrations in freshwater fish;

(B) in 2000, 41 States issued health advisories that warned the public about consuming mercury-tainted fish, as compared to 27 States that issued such advisories in 1993; and

(C) the number of mercury advisories nationwide increased from 899 in 1993 to 2,242 in 2000, an increase of 149 percent;

(17) pollution from power plants can be reduced through adoption of modern technologies and practices, including—

(A) methods of combusting coal that are intrinsically more efficient and less polluting, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) methods of combusting cleaner fuels, such as gases from fossil and biological resources and combined cycle turbines;

(C) treating flue gases through application of pollution controls;

(D) methods of extracting energy from natural, renewable resources of energy, such as solar and wind sources;

(E) methods of producing electricity and thermal energy from fuels without conventional combustion, such as fuel cells; and

(F) combined heat and power methods of extracting and using heat that would otherwise be wasted, for the purpose of heating or cooling office buildings, providing steam to processing facilities, or otherwise increasing total efficiency;

(18) adopting the technologies and practices described in paragraph (17) would increase competitiveness and productivity, secure employment, save lives, and preserve the future; and

(19) accurate, long-term, nationwide monitoring of atmospheric acid and mercury deposition is essential for—

(A) determining deposition trends;

(B) evaluating the local and regional transport of emissions; and

(C) assessing the impact of emission reductions.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect and preserve the environment while safeguarding health by ensuring that each fossil fuel-fired generating unit minimizes air pollution to levels that are technologically feasible through modernization and application of pollution controls;

(2) to greatly reduce the quantities of mercury, carbon dioxide, sulfur dioxide, and nitrogen oxides entering the environment from combustion of fossil fuels;

(3) to permanently reduce emissions of those pollutants by increasing the combustion heat rate efficiency of fossil fuel-fired generating units to levels achievable through—

(A) use of commercially available combustion technology, including clean coal technologies such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) installation of pollution controls;

(C) expanded use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells; and

(D) promotion of application of combined heat and power technologies;

(4)(A) to create financial and regulatory incentives to retire thermally inefficient generating units and replace them with new units that employ high-thermal-efficiency combustion technology; and

(B) to increase use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells;

(5) to establish the Clean Air Trust Fund to fund the training, economic development, carbon sequestration, and research, development, and demonstration programs established under this Act;

(6) to eliminate the ''grandfather'' loophole in the Clean Air Act relating to sources in operation before the promulgation of standards under section 111 of that Act (42 U.S.C. 7411);

(7) to express the sense of Congress that permanent reductions in emissions of greenhouse gases that are accomplished through the retirement of old units and replacement by new units that meet the combustion heat rate efficiency and emission standards specified in this Act should be credited to the utility sector and the owner or operator in any climate change implementation program;

(8) to promote permanent and safe disposal of mercury recovered through coal cleaning, flue gas control systems, and other methods of mercury pollution control;

(9) to increase public knowledge of the sources of mercury exposure and the threat to public health from mercury, particularly the threat to the health of pregnant women and their fetuses, women of childbearing age, and children;

(10) to decrease significantly the threat to human health and the environment posed by mercury;

(11) to provide worker retraining for workers adversely affected by reduced consumption of coal;

(12) to provide economic development incentives for communities adversely affected by reduced consumption of coal;

(13) to promote research concerning renewable energy sources, clean power generation technologies, and carbon sequestration; and

(14) to promote government accountability for compliance with the Clean Air Act (42 U.S.C. 7401 et seq.) and other emission reduction laws by ensuring accurate, long-term, nationwide monitoring of atmospheric acid and mercury deposition.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) GENERATING UNIT.—The term ''generating unit'' means an electric utility generating unit.

SEC. 4. COMBUSTION HEAT RATE EFFICIENCY STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than the day that is 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit that commences operation on or before that day shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 45 percent (based on the higher heating value of the fuel).

(2) FUTURE GENERATING UNITS.—Each fossil fuel-fired generating unit that commences operation more than 10 years after the date of enactment of this Act shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 50 percent (based on the higher heating value of the fuel), unless granted a waiver under subsection (d).

(b) TEST METHODS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(c) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(d) WAIVER OF COMBUSTION HEAT RATE EFFICIENCY STANDARD.—

(1) APPLICATION.—The owner or operator of a generating unit that commences operation more than 10 years after the date of enactment of this Act may apply to the Administrator for a waiver of the combustion heat rate efficiency standard specified in subsection (a)(2) that is applicable to that type of generating unit.

(2) ISSUANCE.—The Administrator may grant the waiver only if—

(A)(i) the owner or operator of the generating unit demonstrates that the technology to meet the combustion heat rate efficiency standard is not commercially available; or

(ii) the owner or operator of the generating unit demonstrates that, despite best technical efforts and willingness to make the necessary level of financial commitment, the combustion heat rate efficiency standard is not achievable at the generating unit; and

(B) the owner or operator of the generating unit enters into an agreement with the Administrator to offset by a factor of 1.5 to 1, using a method approved by the Administrator, the emission reductions that the generating unit does not achieve because of the failure to achieve the combustion heat rate efficiency standard specified in subsection (a)(2).

(3) EFFECT OF WAIVER.—If the Administrator grants a waiver under paragraph (1), the generating unit shall be required to achieve and maintain, at all operating levels, the combustion heat rate efficiency standard specified in subsection (a)(1).

SEC. 5. AIR EMISSION STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) ALL FOSSIL FUEL-FIRED GENERATING UNITS.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit, regardless of its date of construction or commencement of operation, shall be subject to, and operating in physical and operational compliance with, the new source review requirements under section 111 of the Clean Air Act (42 U.S.C. 7411).

(b) EMISSION RATES FOR SOURCES REQUIRED TO MAINTAIN 45 PERCENT EFFICIENCY.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit subject to section 4(a)(1) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to remove 90 percent of the mercury contained in the fuel, calculated in accordance with subsection (e).

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.9 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.3 pounds of carbon dioxide per kilowatt hour of net electric power output.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.55 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(c) EMISSION RATES FOR SOURCES REQUIRED TO MAINTAIN 50 PERCENT EFFICIENCY.—Each fossil fuel-fired generating unit subject to section 4(a)(2) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to remove 90 percent of the mercury contained in the fuel, calculated in accordance with subsection (e).

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.8 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.2 pounds of carbon dioxide per kilowatt hour of net electric power output.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.4 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(d) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(e) COMPLIANCE DETERMINATION AND MONITORING.—

(1) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(2) CALCULATION OF MERCURY EMISSION REDUCTIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate fuel sampling techniques and emission monitoring techniques for use by generating units in calculating mercury emission reductions for the purposes of this section.

(3) REPORTING.—

(A) IN GENERAL.—Not less often than quarterly, the owner or operator of a generating unit shall submit a pollutant-specific emission report for each pollutant covered by this section.

(B) SIGNATURE.—Each report required under subparagraph (A) shall be signed by a responsible official of the generating unit, who shall certify the accuracy of the report.

(C) PUBLIC REPORTING.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more forms of electronic media, facility-specific emission data for each generating unit and pollutant covered by this section.

(D) CONSUMER DISCLOSURE.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations requiring each owner or operator of a generating unit to disclose to residential consumers of electricity generated by the unit, on a regular basis (but not less often than annually) and in a manner convenient to the consumers, data concerning the level of emissions by the generating unit of each pollutant covered by this section and each air pollutant covered by section 111 of the Clean Air Act (42 U.S.C. 7411).

(f) DISPOSAL OF MERCURY CAPTURED OR RECOVERED THROUGH EMISSION CONTROLS.—

(1) CAPTURED OR RECOVERED MERCURY.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations to ensure that mercury that is captured or recovered through the use of an emission control, coal cleaning, or another method is disposed of in a manner that ensures that—

(A) the hazards from mercury are not transferred from 1 environmental medium to another; and

(B) there is no release of mercury into the environment.

(2) MERCURY-CONTAINING SLUDGES AND WASTES.—The regulations promulgated by the Administrator under paragraph (1) shall ensure that mercury-containing sludges and wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

(g) PUBLIC REPORTING OF FACILITY-SPECIFIC EMISSION DATA.—

(1) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and the Internet, facility-specific emission data for each generating unit and for each pollutant covered by this section.

(2) SOURCE OF DATA.—The emission data shall be taken from the emission reports submitted under subsection (e)(3).

SEC. 6. EXTENSION OF RENEWABLE ENERGY PRODUCTION CREDIT.

Section 45(c) of the Internal Revenue Code of 1986 (relating to definitions) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'';

(B) in subparagraph (C), by striking the period and inserting a comma; and

(C) by adding at the end the following:

''(D) solar power, and

''(E) geothermal power.'';

(2) in paragraph (3)—

(A) in subparagraph (A), by striking ''2002'' and inserting ''2016'';

(B) in subparagraph (B), by striking ''2002'' and inserting ''2016'';

(C) in subparagraph (C), by striking ''2002'' and inserting ''2016''; and

(D) by adding at the end the following:

''(D) SOLAR POWER FACILITY.—In the case of a facility using solar power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2016.

''(E) GEOTHERMAL POWER FACILITY.—In the case of a facility using geothermal power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2016.''; and

(3) by adding at the end the following:

''(5) SOLAR POWER.—The term 'solar power' means solar energy harnessed through photovoltaic systems, solar boilers which provide process heat, and any other means.

''(6) GEOTHERMAL POWER.—The term 'geothermal power' means thermal energy extracted from the earth for the purposes of producing electricity.''.

SEC. 7. MEGAWATT HOUR GENERATION FEES.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after subchapter D the following:

''Subchapter E—Megawatt Hour Generation Fees

''Sec. 4691. Imposition of fees.

''SEC. 4691. IMPOSITION OF FEES.

''(a) TAX IMPOSED.—There is hereby imposed on each covered fossil fuel-fired generating unit a tax equal to 30 cents per megawatt hour of electricity produced by the covered fossil fuel-fired generating unit.

''(b) ADJUSTMENT OF RATES.—Not less often than once every 2 years beginning after 2005, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate the rate of the tax imposed by subsection (a) and increase the rate if necessary for any succeeding calendar year to ensure that the Clean Air Trust Fund established by section 9511 has sufficient amounts to fully fund the activities described in section 9511(c).

''(c) PAYMENT OF TAX.—The tax imposed by this section shall be paid quarterly by the owner or operator of each covered fossil fuel-fired generating unit.

''(d) COVERED FOSSIL FUEL-FIRED GENERATING UNIT.—The term 'covered fossil fuel-fired generating unit' means an electric utility generating unit which—

''(1) is powered by fossil fuels;

''(2) has a generating capacity of 5 or more megawatts; and

''(3) because of the date on which the generating unit commenced commercial operation, is not subject to all regulations promulgated under section 111 of the Clean Air Act (42 U.S.C. 7411).''.

(b) CONFORMING AMENDMENT.—The table of subchapters for such chapter 38 is amended by inserting after the item relating to subchapter D the following:

''SUBCHAPTER E. Megawatt hour generation fees.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced in calendar years beginning after December 31, 2003.

SEC. 8. CLEAN AIR TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following:

"SEC. 9511. CLEAN AIR TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Air Trust Fund' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to the taxes received in the Treasury under section 4691.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available, without further Act of appropriation, upon request by the head of the appropriate Federal agency in such amounts as the agency head determines are necessary—

''(1) to provide funding under section 12 of the Clean Power Plant and Modernization Act of 2001, as in effect on the date of enactment of this section;

''(2) to provide funding for the demonstration program under section 13 of such Act, as so in effect;

''(3) to provide assistance under section 15 of such Act, as so in effect;

''(4) to provide assistance under section 16 of such Act, as so in effect; and

''(5) to provide funding under section 17 of such Act, as so in effect.''.

(b) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following:

''Sec. 9511. Clean Air Trust Fund.''.

SEC. 9. ACCELERATED DEPRECIATION FOR INVESTOR-OWNED GENERATING UNITS.

(a) IN GENERAL.—Section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended—

(1) in subparagraph (E) (relating to 15-year property), by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) any 45-percent efficient fossil fuel-fired generating unit.''; and

(2) by adding at the end the following:

''(F) 12-YEAR PROPERTY.—The term '12-year property' includes any 50-percent efficient fossil fuel-fired generating unit.''.

(b) DEFINITIONS.—Section 168(i) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following:

''(15) FOSSIL FUEL-FIRED GENERATING UNITS.—

''(A) 50-PERCENT EFFICIENT FOSSIL FUEL-FIRED GENERATING UNIT.—The term '50-percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil fuel-fired generating unit pursuant to a plan approved by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to place into service such a unit which is in compliance with sections 4(a)(2) and 5(c) of the Clean Power Plant and Modernization Act of 2001, as in effect on the date of enactment of this paragraph.

''(B) 45-PERCENT EFFICIENT FOSSIL FUEL-FIRED GENERATING UNIT.—The term '45-percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil fuel-fired generating unit pursuant to a plan so approved to place into service such a unit which is in compliance with sections 4(a)(1) and 5(b) of such Act, as so in effect.''.

(c) CONFORMING AMENDMENT.—The table contained in section 168(c) of the Internal Revenue Code of 1986 (relating to applicable recovery period) is amended by inserting after the item relating to 10-year property the following:

''12-year property ..... 12 years''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property used after the date of enactment of this Act.

SEC. 10. GRANTS FOR PUBLICLY OWNED GENERATING UNITS.

Any capital expenditure made after the date of enactment of this Act to purchase, install, and bring into commercial operation any new publicly owned generating unit that—

(1) is in compliance with sections 4(a)(1) and 5(b) shall, for a 15-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3)(E) of the Internal Revenue Code of 1986 by a similarly-situated investor-owned generating unit over that period; and

(2) is in compliance with sections 4(a)(2) and 5(c) shall, over a 12-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3)(D) of such Code by a similarly-situated investor-owned generating unit over that period.

SEC. 11. RECOGNITION OF PERMANENT EMISSION REDUCTIONS IN FUTURE CLIMATE CHANGE IMPLEMENTATION PROGRAMS.

It is the sense of Congress that—

(1) permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the combustion heat rate efficiency and emission standards specified in this Act, or through replacement of old generating units with nonpolluting renewable power generation technologies, should be credited to the utility sector, and to the owner or operator that retires or replaces the old generating unit, in any climate change implementation program enacted by Congress;

(2) the base year for calculating reductions under a program described in paragraph (1) should be the calendar year preceding the calendar year in which this Act is enacted; and

(3) a reasonable portion of any monetary value that may accrue from the crediting described in paragraph (1) should be passed on to utility customers.

SEC. 12. RENEWABLE AND CLEAN POWER GENERATION TECHNOLOGIES.

(a) IN GENERAL.—Under the Renewable Energy and Energy Efficiency Technology Act of 1989 (42 U.S.C. 12001 et seq.), the Secretary of Energy shall fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from—

(1) biomass (excluding unseparated municipal solid waste), geothermal, solar, and wind technologies; and

(2) fuel cells.

(b) TYPES OF PROJECTS.—Demonstration projects may include solar power tower plants, solar dishes and engines, co-firing of biomass with coal, biomass modular systems, next-generation wind turbines and wind turbine verification projects, geothermal energy conversion, and fuel cells.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2003 through 2012.

SEC. 13. CLEAN COAL, ADVANCED GAS TURBINE, AND COMBINED HEAT AND POWER DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Under subtitle B of title XXI of the Energy Policy Act of 1992 (42 U.S.C. 13471 et seq.), the Secretary of Energy shall establish a program to fund projects and partnerships designed to demonstrate the efficiency and environmental benefits of electric power generation from—

(1) clean coal technologies, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(2) advanced gas turbine technologies, such as flexible midsized gas turbines and base-load utility scale applications; and

(3) combined heat and power technologies.

(b) SELECTION CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall promulgate criteria and procedures for selection of demonstration projects and partnerships to be funded under subsection (a).

(2) REQUIRED CRITERIA.—At a minimum, the selection criteria shall include—

(A) the potential of a proposed demonstration project or partnership to reduce or avoid emissions of pollutants covered by section 5 and air pollutants covered by section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the potential commercial viability of the proposed demonstration project or partnership.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2003 through 2012.

(2) DISTRIBUTION.—The Secretary shall make reasonable efforts to ensure that, under the program established under this section, the same amount of funding is provided for demonstration projects and partnerships under each of paragraphs (1), (2), and (3) of subsection (a).

SEC. 14. EVALUATION OF IMPLEMENTATION OF THIS ACT AND OTHER STATUTES.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy, in consultation with the Chairman of the Federal Energy Regulatory Commission and the Administrator, shall submit to Congress a report on the implementation of this Act.

(b) IDENTIFICATION OF CONFLICTING LAW.—The report shall identify any provision of the Energy Policy Act of 1992 (Public Law 102–486), the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), or the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.), or the amendments made by those Acts, that conflicts with the intent or efficient implementation of this Act.

(c) RECOMMENDATIONS.—The report shall include recommendations from the Secretary of Energy, the Chairman of the Federal Energy Regulatory Commission, and the

Administrator for legislative or administrative measures to harmonize and streamline the statutes specified in subsection (b) and the regulations implementing those statutes.

SEC. 15. ASSISTANCE FOR WORKERS ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2003 through 2015 to provide assistance, under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), to coal industry workers who are terminated from employment as a result of reduced consumption of coal by the electric power generation industry.

SEC. 16. COMMUNITY ECONOMIC DEVELOPMENT INCENTIVES FOR COMMUNITIES ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2003 through 2012 to provide assistance, under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), to assist communities adversely affected by reduced consumption of coal by the electric power generation industry.

SEC. 17. CARBON SEQUESTRATION.

(a) CARBON SEQUESTRATION STRATEGY.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Energy for each of fiscal years 2003 through 2005 a total of $15,000,000 to conduct research and development activities in basic and applied science in support of development by September 30, 2005, of a carbon sequestration strategy that is designed to offset all growth in carbon dioxide emissions in the United States after 2010.

(b) METHODS FOR BIOLOGICALLY SEQUESTERING CARBON DIOXIDE.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Agriculture for each of fiscal years 2003 through 2012 a total of $30,000,000 to carry out soil restoration, tree planting, wetland protection, and other methods of biologically sequestering carbon dioxide.

(c) LIMITATION.—A project carried out using funds made available under this section shall not be used to offset any emission reduction required under any other provision of this Act.

SEC. 18. ATMOSPHERIC MONITORING.

(a) OPERATIONAL SUPPORT.—In addition to amounts made available under any other law, there are authorized to be appropriated for each of fiscal years 2003 through 2012—

(1) for operational support of the National Atmospheric Deposition Program National Trends Network—

(A) $2,000,000 to the United States Geological Survey;

(B) $600,000 to the Environmental Protection Agency;

(C) $600,000 to the National Park Service; and

(D) $400,000 to the Forest Service;

(2) for operational support of the National Atmospheric Deposition Program Mercury Deposition Network—

(A) $400,000 to the Environmental Protection Agency;

(B) $400,000 to the United States Geological Survey;

(C) $100,000 to the National Oceanic and Atmospheric Administration; and

(D) $100,000 to the National Park Service;

(3) for the National Atmospheric Deposition Program Atmospheric Integrated Research Monitoring Network $1,500,000 to the National Oceanic and Atmospheric Administration;

(4) for the Clean Air Status and Trends Network $5,000,000 to the Environmental Protection Agency; and

(5) for the Temporally Integrated Monitoring of Ecosystems and Long-Term Monitoring Program $2,500,000 to the Environmental Protection Agency.

(b) MODERNIZATION.—In addition to amounts made available under any other law, there are authorized to be appropriated—

(1) for equipment and site modernization of the National Atmospheric Deposition Program National Trends Network $6,000,000 to the Environmental Protection Agency;

(2) for equipment and site modernization and network expansion of the National Atmospheric Deposition Program Mercury Deposition Network $2,000,000 to the Environmental Protection Agency;

(3) for equipment and site modernization and network expansion of the National Atmospheric Deposition Program Atmospheric Integrated Research Monitoring Network $1,000,000 to the National Oceanic and Atmospheric Administration; and

(4) for equipment and site modernization and network expansion of the Clean Air Status and Trends Network $4,600,000 to the Environmental Protection Agency.

(c) AVAILABILITY OF AMOUNTS.—Each of the amounts appropriated under subsection (b) shall remain available until expended.

SECTION-BY-SECTION OVERVIEW OF THE CLEAN POWER PLANT AND MODERNIZATION ACT OF 2001

WHAT WILL THE CLEAN POWER PLANT AND MODERNIZATION ACT OF 2001 DO?

The Clean Power Plant and Modernization Act of 2001 lays out an ambitious, achievable, and balanced set of financial incentives and regulatory requirements designed to increase power plant efficiency, reduce emissions, and encourage the use of renewable energy and clean power generation methods. The bill encourages innovation, entrepreneurship, and risk-taking. In the long term, the bill will reduce acid precipitation, decrease mercury contamination, help mitigate climate change, improve visibility, and safeguard human health.

Section 4. Combustion Heat Rate Efficiency Standards for Fossil Fuel-Fired Generating Units

Fossil fuel-fired power plants in the United States operate at an average combustion efficiency of 33%. This means that, on average, 67% of the heat generated by burning the fuel is wasted. Without changing fuels, increasing combustion efficiency is the best way to reduce carbon dioxide emissions. Section 4 lays out a phased two-stage process for increasing efficiency. In the first stage, by 10 years after enactment, all units in operation must achieve a combustion heat rate efficiency of not less than 45%. In the second stage, with expected advances in combustion technology, units commencing operation more than 10 years after enactment must achieve a combustion heat rate efficiency of not less than 50%. Carbon dioxide emission reductions on the order of 650 millions tons per year are expected, and the potential exists for even larger reductions.

If, for some unforeseen reason, technological advances do not achieve the 50% efficiency level, Section 4 contains a waiver provision that allows the owners of new units to offset any shortfall in carbon dioxide emission reductions through implementation of carbon sequestration projects.

Section 5. Air Emission Standards for Fossil Fuel-Fired Generating Units

Subsection (a) eliminates the ''grandfather'' loophole in the Clean Air Act and requires all units, regardless of when they were constructed or began operation, to comply with existing new source review requirements under Section 111 of the Clean Air Act.

Subsection (b) sets mercury, carbon dioxide, sulfur dioxide, and nitrogen oxide emission standards for units that are subject to the 45% thermal efficiency standard set forth in Section 4. For mercury, 90% of the mercury contained in the fuel must be removed. For carbon dioxide, the emission limits are set by fuel type (i.e., natural gas = 0.9 pounds per kilowatt-hour of output; fuel oil = 1.3 pounds per kilowatt-hour of output; coal = 1.55 pounds per kilowatt-hour of output). 95% of sulfur dioxide emissions and 90% of nitrogen oxide emissions are to be removed, and emissions may not exceed 0.3 pounds of sulfur dioxide and 0.15 pounds of nitrogen oxides per million BTUs of fuel consumed.

Subsection (c) sets emission standards for units that are subject to the 50% thermal efficiency standard set forth in Section 4. Standards for mercury, sulfur dioxide, and nitrogen oxides are the same as those in Subsection (b). Greater combustion efficiency results in lower emissions of carbon dioxide, and the fuel-specific emission limits are lowered accordingly (i.e., natural gas = 0.8 pounds per kilowatt-hour of output; fuel oil = 1.2 pounds per kilowatt-hour of output; coal = 1.4 pounds per kilowatt-hour of output).

Section 6. Extension of Renewable Energy Production Credit

Section 45(c) of the Internal Revenue Code of 1986 is amended to include solar power and geothermal power and to extend the renewable energy production credit through 2015. (This credit is currently set to expire in 2001.)

Section 7. Megawatt-Hour Generation Fees and Section 8. Clean Air Trust Fund

To offset the impact to the Treasury of the incentives in Sections 9 and 10, the bill establishes the Clean Air Trust Fund. The Trust Fund is similar to the Highway Trust Fund or the Superfund. The revenue for the Trust Fund will be provided by assessing a fee of 30 cents per megawatt-hour of electricity produced by covered electric generating units.

The Trust Fund will also be used to pay for assistance to workers and communities adversely affected by reduced consumption of coal, research and development for renewable power generation technologies (e.g., wind, solar, and biomass), and carbon sequestration projects.

Section 9. Accelerated Depreciation for Investor-Owned Generating Units

Under the Internal Revenue Code of 1986, utilities can depreciate their generating equipment over a 20 year period. Section 9 amends Section 168 of the Internal Revenue Code of 1986 to allow for depreciation over a 15 year period for units meeting the 45% efficiency level and the emission standards in Section 5(b). Section 9 also amends Section 168 to allow for depreciation over a 12 year

period for units meeting the 50% efficiency level and the emission standards in Section 5(c).

Section 10. Grants for Publicly Owned Generating Units

No federal taxes are paid on publicly-owned generating units. To provide publicly-owned utilities with comparable incentives to modernize, Section 10 provides for annual grants in an amount equal to the monetary value of the depreciation deduction that would be realized by a similarly situated investor-owned generating unit under Section 9. Units meeting the 45% efficiency level and the emission standards in Section 5(b) would receive annual grants over a 15 year period, and units meeting the 50% efficiency level and the emission standards in Section 5(c) would receive annual grants over a 12 year period.

Section 11. Recognition of Permanent Emission Reductions in Future Climate Change Implementation Programs

This section expresses the sense of Congress that permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the efficiency and emission standards in the bill, or through replacement with non-polluting renewable power generation technologies, should be credited to the utility sector and to the owner/operator in any climate change implementation program enacted by Congress.

Section 12. Renewable and Clean Power Generation Technologies

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from biomass, geothermal, solar, and wind technologies. Types of projects may include solar power tower plants, solar dishes and engines, co-firing biomass with coal, biomass modular systems, next-generation wind turbines and wind verification projects, and geothermal energy conversion.

Section 13. Clean Coal, Advanced Gas Turbine, and Combined Heat and Power Demonstration Program

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from clean coal technologies, advanced gas turbine technologies, and combined heat and power technologies.

Section 14. Evaluation of Implementation of This Act and Other Statutes

Not later than 2 years after enactment, DOE, in consultation with EPA and FERC, shall report to Congress on the implementation of the Clean Power Plant and Modernization Act. The report shall identify any provisions of other laws that conflict with the efficient implementation of the Clean Power Plant and Modernization Act. The report shall include recommendations for legislative or administrative measures to harmonize and streamline these other statutes.

Section 15. Assistance for Workers Adversely Affected by Reduced Consumption of Coal

Beginning 3 years after enactment, this section provides a total of $975 million over 13 years to provide assistance to coal industry workers who are adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by Title III of the Job Training Partnership Act.

Section 16. Community Economic Development Incentives for Communities Adversely Affected by Reduced Consumption of Coal

Beginning 3 years after enactment, this section provides a total of $975 million over 13 years to provide assistance to communities adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965.

Section 17. Carbon Sequestration

This section authorizes $45 million over 3 years for DOE to conduct research and development in support of a national carbon sequestration strategy. This section also authorizes $300 million over 10 years for EPA and USDA to fund carbon sequestration projects such as soil restoration, tree planting, wetlands protection, and other ways of biologically sequestering carbon.

Section 18. Atmospheric Monitoring

This section authorizes $13.6 million over 10 years to support the operation of existing instrument networks that monitor the deposition of sulfates, nitrates, mercury, and other pollutants, as well as the effects of these pollutants of ecosystem health. This section also authorizes a one-time expenditure of $13.6 million for equipment modernization for these instrument networks.

By Mr. CRAPO:

S. 1132. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to the distribution chain of prescription drugs; to the Committee on Health, Education, Labor, and Pensions.

Mr. CRAPO. Mr. President, I rise today to introduce a bill designed to prevent a serious disruption in the distribution of prescription drugs across America. Unless changed by this legislation, or modified by the agency itself, a regulation issued by the Food and Drug Administration will drive out of business thousands of small and medium sized drug wholesalers. Tens of thousands of small nursing homes, clinics, doctor's offices, drug stores, and veterinary practices, especially in rural areas, would be forced to find new suppliers of prescription drugs, who would almost certainly charge higher prices. Consumers, especially the sickest and the least able to pay, would be even further hard-pressed to afford the prescription drugs they need to maintain their health.

There is no real health or safety reason behind the FDA's action, which is simply a lack of understanding of how the wholesale distribution of drugs actually works. The agency's regulation would complete the implementation of the Prescription Drug Marketing Act, which was enacted in April 1988. That statute, which was designed to stop the misuse of drug samples, prevent various types of resale fraud, stop the importation of counterfeit drugs, and establish minimum national standards for the storage and handling of drugs by wholesalers, has worked well.

However, the FDA's regulation, which will go into effect on April 1, 2001, created two problems for wholesalers, neither of which were present when the agency issued its initial policy guidance on the statute in 1988. The first problem relates to the sales history of drug products which wholesalers must provide their customers. A wholesaler who does not purchase directly from a manufacturer must provide their customer with a detailed history of all prior sales of that product back to the wholesaler who did purchase the drugs from the manufacturer. This provision was designed to prevent the introduction of counterfeits or other drugs from questionable or unknown sources into the marketplace. The FDA's initial guidance was that resellers who did not purchase drugs directly from a manufacturer had to trace the product back to the wholesaler who did purchase directly from the manufacturer. This wholesaler is known as an authorized distributor.

Not withstanding the fact that this system has produced a drug distribution system of exceptional quality, the FDA has changed its mind as to what the statute required and proposed that a reseller now be required to trace the product history all the way back to the manufacturer. At the same time, however, the agency also concluded that the statute does not require either the manufacturer or the authorized distributor to provide this sales history to the secondary reseller. But without this very detailed sales history, it will be illegal for the secondary wholesaler to resell products. Since it is economically and logistically impractical for manufacturers or authorized distributors to keep track of the huge volume of product in the extreme detail required by the FDA rule, thousands of secondary wholesalers will be forced to cease business.

Fortunately, there is a simple solution. In 1990, the FDA finalized a regulation implementing another part of the PDMA, which requires wholesalers to keep very detailed records of all purchases, sales, or other dispositions of the drugs they obtain. These records, which are very similar to the detailed sales history in the FDA's latest regulation, are also subject to audit by the agency, by state regulators, and must be made available to law enforcement agencies if needed. Thus, there is really no need for a secondary wholesaler to try and assemble the detailed and virtually unobtainable sales history now demanded by the FDA and to pass it on to their customers. Instead, the bill I am introducing today requires only

that secondary wholesalers provide a written statement to their customers that the drug products were first purchased from a manufacturer or authorized distributor. Substituting the written statement would prevent a serious disruption in the wholesale drug sector while preserving the original intent of the PDMA, which was to guard the network of licensed and inspected wholesalers from counterfeits or drugs from questionable sources. It would be a simple matter for a secondary wholesaler to determine that a shipment of drugs was first purchased by an authorized wholesaler, and the written statement would be subject to criminal penalties if falsified under existing law. Substituting the written statement for the paper trail requirement would also reduce selling costs, which could be passed on to the consumer.

This bill is a companion to H.R. 68, introduced on January 3, 2001, by Representatives JO ANN EMERSON and MARION BERRY. That bill now has 45 cosponsors who represent an especially diverse geographical and ideological cross section of the House and is supported by nine major trade and professional organizations representing most companies that wholesale or retail prescription drugs in the U.S. I invite my colleagues in the Senate to add their names to this commonsense measure.

By Mrs. BOXER (for herself, Mrs. CARNAHAN, and Mr. BOND):

S. 1133. A bill to amend title 49, United States Code, to preserve nonstop air service to and from Ronald Reagan Washington National Airport for certain communities in case of airline bankruptcy; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, last week the Bush Administration eliminated the only nonstop air service between Los Angeles International Airport, LAX, and National Airport, DCA, in Washington, DC. The elimination of the flight makes Los Angeles the largest U.S. city without nonstop air service to this vital airport in the Nation's capital.

Since the DCA to lax flight began 10 months ago, 45,000 passengers have taken the flight. Not only is it popular, but many small and mid-sized communities throughout the state, including Bakersfield, Fresno, Monterey, and San Luis Obispo, rely on this flight. They have connecting flights into LAX specifically designed so that passengers can take the LAX–DCA nonstop flight. These communities will suffer because of this decision.

This happened because TWA, which operated the flight, went bankrupt. Even though American Airlines purchased the assets of TWA and was willing to continue the flight, the Administration gave the LAX slot at National Airport to another city.

This was an unfortunate decision, and one that was both unnecessary and unjustified. Therefore, today, I am introducing legislation to reinstate the service. It is narrowly crafted to address the unique situation we have here.

My bill only applies in cases where a community loses service to DCA because the airline operating the flight went bankrupt. In those cases, the air carrier that purchases the assets of the bankrupt airlines has a right to continue the nonstop service. In exchange, however, the air carrier must give up one of its several slots that it uses to fly to its hub airport.

In this way, my bill would not create any additional flights to National Airport. Nor would it take away any of the long-distance nonstop flights now in operation, including to the city that just received the slot originally granted to Los Angeles. But, it would allow the very popular nonstop air service between LAX and DCA to continue.

It seems to me that this is a fair compromise to ensure that service between National Airport and Los Angeles continues. I look forward to working with my colleagues to address this problem before the end of the summer.

By Mr. LIEBERMAN (for himself and Mr. HATCH):

S. 1134. A bill to amend the Internal Revenue Code of 1986 to modify the rules applicable to qualified small business stock; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation to provide an incentive for capital formation for entrepreneurs.

This incentive is tailor-made to form capital for entrepreneurial firms so they can spur economic growth, create high wage jobs, and ensure American competitiveness into the 21st Century. It focuses on equity investments as this is the only form of capital most entrepreneurial firms secure to fund research and development; most such firms are unable to secure debt capital.

Because this incentive applies to founders stock and employee stock options, and not just stock offered to outside investors, it provides a powerful incentive for the human infrastructure and culture that drives and grows our nation's entrepreneurial firms.

This legislation could not be more timely given the drought we see in equity capital for entrepreneurs. Nationwide we saw 850 Initial Public Offerings of stock, IPOs, in 1996, 610 in 1997, 362 in 1998, 501 in 1999, and 379 in 2000. So far in 2001 we have seen only 50. The total value of these offerings was $47 billion in 1996, $39 billion in 1997, $37 billion in 1998, $53 billion in 1999, and $54 billion in 2000. So far in 2001, it's only $20 billion. Entrepreneurs are starved for capital and this incentive is tailor made to provide an incentive to investors to provide it to them.

The details of our proposal are straight forward. They call for a 100 percent exclusion, a zero capital gains rate, for new, direct, long-term investments in the stock of a small corporation. ''New'' means that the stock must be offered after the effective date of the bill and does not apply to sale of previously acquired equity shares. ''Direct'' means the stock must have been acquired from the firm and not in secondary markets, so it includes founders stock, stock options, venture capital placements, IPOs, and subsequent public stock offerings. ''Long-term'' means the stock must be held for three years. ''Stock'' includes any type of stock, including convertible preferred shares. ''Small corporation'' means a corporation with $300 million or less in capitalization (not valuation, but paid-in capital). The incentive applies to both individual and corporate taxpayers. And the excluded gains are not a preference item for the Alternative Minimum Tax.

I am pleased that Senator HATCH has agreed to serve as the lead cosponsor of the legislation. He and I worked closely together from 1995 through 1997 to restore the capital gains incentive. There were many Members involved with that effort, but Senator HATCH and I were pleased to be the leaders of the legislative coalition that proved to be so effective. Our work now on this venture capital gains legislation is a continuation of that long and successful partnership.

I am pleased that Representatives JENNIFER DUNN and ROBERT MATSUI are introducing the same bill in the other body.

I have long championed this approach to capital gains incentives. Most recently, this proposal was included as Section 4 of S. 798, the Productivity, Opportunity, and Prosperity Act of 2001. The first proposal on this subject was introduced on April 7, 1987 in the 100th Congress by Senator Dale Bumpers as S. 932. I was an early supporter of this proposal and I cosponsored a version of this proposal introduced in 1991 by Senator Bumpers as S.1932. A version of that bill was enacted as part of the 1993 tax bill, Section 1202, but it was laden with technical requirements that limited its effectiveness. In the 104th Congress sent amendments to strengthen Section 1202 to President Clinton in the tax bill vetoed he vetoed in 1996. In the 105th Congress these amendments were included in all of the key capital gains, including S. 2 (Roth), S. 20 (DASCHLE), S. 66 (HATCH-LIEBERMAN), S. 501 (Mack), and S. 745 (Bumpers). These amendments were sent to the conference on that bill but did not emerge from it. A broad-based capital gains incentive, which I supported, was enacted into law and a rollover provision was enacted with regard to Section 1202 stock. In the 106th Congress, amendments to strengthen

Section 1202 were introduced in the House by Representatives JENNIFER DUNN and BOB MATSUI, H.R. 2331. Then I introduced the incentive as part of S. 798 and we are today introducing it again as a stand-alone bill.

Today I am pleased to cosponsor S. 818, the capital gains proposal introduced by Senator HATCH and TORRICELLI and others. That proposal calls for a reduction in the current 20 percent capital gains tax rate for a broad class of investments, simplifies the capital gains tax, and provides special benefits to low income taxpayers. This bill and the bill we introduce today are complementary and should both be enacted.

I recognize that the Joint Committee on Taxation, which determines the ''cost'' of all tax proposals, will determine that our proposal today, and S. 818, will lose revenue. I believe this finding to be short-sighted given the dramatic effect that these incentives will have on entrepreneurs and therefore on economic growth, but there is no way to appeal these determinations. There is no revenue remaining available under the budget resolution to tap to finance these proposals. Accordingly, I fully accept the obligation to find a way to pay for these and other tax proposals, an offset, so that we do not adversely affect the deficit.

The reasons for setting a special capital gains rate for venture capital are compelling. Entrepreneurial firms are the ones which can dramatically change our whole health care system, clean up our environment, link us in international telecommunication networks, and increase our capacity to understand our world. The firms are founded by dreamers, adventurers, and risk-takers who embody the best we have to offer in our free-enterprise economy.

Entrepreneurship drives growth and small, emerging companies need capital investment to innovate, create jobs, and create wealth. According to the National Commission on Entrepreneurship, a small subset of entrepreneurial firms that comprise only 5–15 percent of all U.S. businesses created about two-thirds of new jobs between 1993–96. Although venture capital is critical to the transition from a fledgling company to a growth company, only a small share of it is associated with small and new firms. In addition, we are currently experiencing a venture capital slow down that makes it even more difficult for small and new firms to attract capital. According to the National Venture Capital Association, NCVA, investment in the fourth quarter of last year slowed by more than 30 percent from the previous quarter.

The primary goal of the Productivity, Opportunity, and Prosperity Act and this venture capital incentive is to protect, stimulate and expand economic growth. Government's role is not to create jobs but to help create the environment in which the private sector will create jobs. This legislation helps to create the right context for private sector growth by providing incentives for investment in training, technology, and small entrepreneurial firms. These investments are critical to economic growth and the creation of jobs and wealth.

The Productivity, Opportunity, and Prosperity Act of 2001, including this venture capital proposal, is a tax plan with a purpose. And that purpose is, above all else, to stimulate private sector economic growth, to raise the tide that lifts the lot of all Americans. In the spirit of the ''New Economy,'' where the fundamentals of our economy have changed through entrepreneurship and innovation, this package includes business tax incentives that will spur the real drivers of growth: innovation, investment, a skilled workforce, and productivity.

Ten years from now we will be judged by the economic policy decisions we make today. People will ask, did we fully understand the awesome changes taking place in our economy and in our society? Did we give our industry and workers the environment and the tools they need to seize the opportunities that an innovation economy offers? I believe that a true Prosperity Agenda is within our grasp. Never before has America been in a stronger position, economically, socially, or politically, to shape our future. But it will take strong and focused leadership. I am confident that if we in the public sector in Washington work in partnership with the private sector throughout our country, we can truly say of America's future that the best is yet to come. I believe that the Productivity, Opportunity, and Prosperity Act and this venture capital incentive are an important step toward that future.

Mr. President, I ask unanimous consent that the text of the bill and section analysis be printed in the RECORD.

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

S. 1134

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 ''Venture Capital Gains and Growth Act of 2001''.

SEC. 2. MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Subsection (a) of section 57 of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) of such Code is amended by striking '', (5), and (7)'' and inserting ''and (5)''.

(b) INCREASE IN ROLLOVER PERIOD FOR QUALIFIED SMALL BUSINESS STOCK.—Subsections (a)(1) and (b)(3) of section 1045 of the Internal Revenue Code of 1986 (relating to rollover of gain from qualified small business stock to another qualified small business stock) are each amended by striking ''60-day'' and inserting ''180-day''.

(c) REDUCTION IN HOLDING PERIOD.—

(1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to partial exclusion for gains from certain small business stock) is amended by striking ''5 years'' and inserting ''3 years''.

(2) CONFORMING AMENDMENT.—Subsections (g)(2)(A) and (j)(1)(A) of section 1202 of such Code are each amended by striking ''5 years'' and inserting ''3 years''.

(d) REPEAL OF PER-ISSUER LIMITATION.—Section 1202(b) of the Internal Revenue Code of 1986 (relating to per-issuer limitations on taxpayer's eligible gain) is repealed.

(e) QUALIFIED TRADE OR BUSINESS.—Section 1202(e)(3) of the Internal Revenue Code of 1986 (relating to qualified trade or business) is amended by inserting '', and is anticipated to continue to be,'' before ''the reputation'' in subparagraph (A).

(f) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Section 1202(e)(6) of the Internal Revenue Code of 1986 (relating to working capital) is amended—

(A) in subparagraph (B), by striking ''2 years'' and inserting ''5 years''; and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Section 1202(c)(3) of such Code (relating to certain purchases by corporation of its own stock) is amended by adding at the end the following new subparagraph:

''(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.''.

(g) INCREASED EXCLUSION.—

(1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to 50-percent exclusion for gain from certain small business stock) is amended by striking ''50 percent'' and inserting ''100 percent''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 1(h)(5) of such Code is amended to read as follows:

''(A) collectibles gain, over''.

(B) Section 1(h) of such Code is amended by striking paragraph (8).

(C) Paragraph (9) of section 1(h) of such Code is amended by striking '', gain described in paragraph (7)(A)(i), and section 1202 gain'' and inserting ''and gain described in paragraph (7)(A)(i)''.

(D) Section 1(h) of such Code is amended by redesignating paragraphs (9) (as amended by subparagraph (C)), (10), (11), and (12) as paragraphs (8), (9), (10), and (11), respectively.

(E) The heading for section 1202 of such Code is amended by striking ''**PARTIAL**'' and inserting ''**100-PERCENT**''.

(F) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by striking ''Partial'' in the item relating to section 1202 and inserting ''100-percent''.

(h) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 (relating to partial exclusion for gains from certain small business stock) is amended by striking ''other than a corporation''.

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1202 of such Code is amended by

adding at the end the following new paragraph:

''(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (d)(3)) shall not be treated as qualified small business stock while held by another member of such group.''.

(i) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—

(1) IN GENERAL.—Paragraph (1) of section 1202(d) of the Internal Revenue Code of 1986 (defining qualified small business) is amended by striking ''$50,000,000'' each place it appears and inserting ''$300,000,000''.

(2) INFLATION ADJUSTMENT.—Section 1202(d) of such Code (defining qualified small business) is amended by adding at the end the following:

''(4) INFLATION ADJUSTMENT OF ASSET LIMITATION.—In the case of stock issued in any calendar year after 2002, the $300,000,000 amount contained in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(j) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

Description of Venture Capital Gains Incentive

Section 1202 enacted in 1993:

50% capital gains exclusion for new investments—not sale of previously acquired assets—new investments made after effective date, August 1993.

Only if investments made directly in stock—not secondary trading, founders stock, stock options, venture capital, public offerings, common, preferred, convertible preferred.

Only if made in stock of a ''small corporation''—defined as a corporation with $50 million or less in capitalization—ceiling not indexed for inflation.

Only if investment held for five years.

Only if investment made by an individual taxpayer—not by a corporate taxpayer.

50% of the excluded gains not covered by the Alternative Minimum Tax (AMT).

Limit on benefits per taxpayer of ''10 times basis or $10 million, whichever is greater''.

Technical problems—redemption of stock, ''spending speed-up'' provision.

Section 1045 enacted in 1997:

Permits investors in Section 1202 stock to roll over their investments in a new Section 1202 investment without ''realizing'' gains and paying taxes within 60 days.

Nine proposed amendments to Section 1202 and Section 1045:

(1) Sets a zero capital gains rate, compared to the 20 percent rate for other capital gains investments.

Only new investments—same.

Only if direct investments—same.

Only if investment in stock—same.

(2) Apply to corporate taxpayers—now only applies to individual taxpayers.

(3) Define ''small corporation'' as one with $300 million in capitalization and index for inflation—up from $50 million with no indexing.

(4) 100 percent exemption from AMT—now 50 percent exemption.

(5) Increase the time permitted to roll over a Section 1202 investment into another Section 1202 investment to 180 days.

(6) Only if investment held for three years—reduction from five years.

(7) Delete ''10 times or $10 million'' limitation.

(8) Extend coverage of Section 1202 to additional corporations.

(9) Fix technical problems—modify redemption of stock, ''spending speed-up'' provision.

By Mr. GRAHAM (for himself, Mr. CHAFEE, Mr. CONRAD, Mrs. LINCOLN, Mr. MILLER, Mr. ROCKEFELELR, Mr. BINGAMAN, Mr. KERRY, and Mr. CARPER):

S. 1135. A bill to amend title XVII of the Social Security Act to provide comprehensive reform of the Medicare program, including the provision of coverage of outpatient prescription drugs under such program; to the Committee on Finance.

Mr. GRAHAM. Mr. President, I rise today joined by my colleagues to introduce the Medicare Reform Act of 2001.

Today we are in the midst of a major health-care debate on the Patients' Bill of Rights. This crucial bill should be the beginning, not end, of reform in the health care system. Now we need to take this momentum and turn to Medicare reform.

Reform is not a word to be tossed around lightly. When we bat around the term Medicare reform, this is what we need to be talking about, ideas that go to the very heart of the existing Medicare program and reform it.

The Medicare Reform Act offers such ideas. It keeps what is best about Medicare intact. Under this bill the program will remain, as it has always been, reliable and affordable. But the Medicare Reform Act also does just what it says. It reforms the program to reflect new realities both scientific and economic, that the program's creators could not possibly have planned for in 1965.

One of these realities is that prescription drugs are a crucial part of any modern health care regime. In fact it is unthinkable that prescription drugs would be excluded if Medicare were created today.

The Medicare Reform Act offers a benefit that, like the existing Medicare program, is both affordable and available for all seniors, regardless of income. The benefit also harnesses the power of today's competitive health care marketplace to keep costs down and offer seniors choices.

Perhaps most importantly, the benefit offered by the Medicare Reform Act has no gaps, no caps and no gimmicks.

This is our line-in-the-sand.

Other plans being discussed have major gaps.

Let's look at one: the bill the House Republicans passed last year offers seniors a benefit of a scant $1,050-a year. Once they hit that cap, coverage stops. It picks up again only if the beneficiary spends $6,000 a year.

Imagine this scenario: An 85-year-old woman pays her monthly prescription drug premium. For the first 6 months of the year, she goes to the drugstore each month to pick up her cholesterol medication and pays $25.

But then she comes to the 7th month, and has hit her benefit cap. Now she has to pay $50 for the same prescription. She's still paying her premium, but she's getting no benefit. Under this benefit, Medicare says ''Sorry. Can't help. Come see me if you have a catastrophe.''

I call plans like this donuts, substance around the edges, giant hole in the middle. I also call them pointless. Who needs insurance you can't be sure of?

No caps, no gaps, no gimmicks. That is set in stone. What is not set is stone is the exact level of the coinsurance or deductible. We're going to be listening to seniors as we move toward a markup, and if we hear they would prefer a lower premium in exchange for higher cost-sharing, we can turn those dials, as long as it's within the parameter of $300 billion.

In structure, the Medicare Reform Act represents a true compromise. It takes the best ideas of all engaged in this issue.

One school of thought has been that the private sector is best equipped to offer an affordable prescription drug benefit.

We agree, up to a point. We do not believe that private insurers should assume all of the risk for this benefit. We do not believe this because private insurers have told us they want no part of this type of system. And we know that we can pass all the laws we want, but we can't make private companies take on Medicare patients.

Rather than foreign the private sector to attempt to do something they do not want to do, we take advantage of the fact that we already have an efficient, workable mechanism in place. That mechanism is the pharmacy benefit manager of PBM. These businesses operate successfully today in every ZIP code of the country. They are in a perfect position to manage the Medicare prescription drug benefit—and to offer seniors a choice.

The Medicare Reform Act would allow multiple PBMs in each geographic region to administer, manage and deliver the prescription drug benefit. They would be allowed to use all of the methods they use currently in the private sector to provide benefits economically, including the use of formularies, preferred pharmacy networks, and generic drug substitution. Additionally, PBMs would be allowed to use mechanisms to encourage beneficiaries to select cost-effective drugs,

including the use of disease management and therapeutic interchange programs.

Beneficiareis in every part of the country would have access to coverage provided by PBMs that would not assume full insurance risk for drug costs. In this way, adverse selection and inappropriate incentives would be avoided.

However, to ensure that PBMs pursue and are held accountable for high quality beneficiary services, improved health outcomes, and managing costs, we require PBMs to put a substantial portion of their management fees at risk for their performance. Performance goals would include price discounts and generic substitution rates, timely action with regard to appeals, sustained pharmacy network access and notifications to avoid adverse drug reactions.

Although all PBMs would be required to offer the standard benefit at a minimum, payments received on the basis of their performance could be used to reduce beneficiary cost-sharing or to waive the deductible for generic drugs.

Requiring PBMs to share risk provides a middle ground between proposals that have included no risk being assumed by the private sector, and proposals that have required the assumption of insurance and selection risk for the cost of drugs.

This arrangement would bring us the benefits of private sector competition without the instabilities that would be associated with a full risk-bearing model. It would take advantage of the fact that the private sector has provided an efficient, workable, stable system for the delivery of prescription drugs, and the management of drug costs, and would allow beneficiaries to choose between multiple vendors.

Prescription drugs are not all that is missing from Medicare.

We live in a world of near miracles. We can stop disease in its track. We can keep a health problem from becoming a health crisis. We can make the lives our seniors better. We can make their bodies stronger. We have the technology.

It's time to let our seniors have it as well.

The ''Medicare Reform Act'' would shift the focus of Medicare from simply treating illness to promoting wellness.

Several proven-effective preventive benefits, like cholesterol screening and smoking cessation counseling, would be added to package. These benefits could save lives.

We also provide a new process for changes to the preventive benefit package. As a member of the Finance Committee, I have sat through hours-long discussions on coverage of screening for colorectal cancer. I've heard debated the relative benefits of barium x-rays v. colonscopies in minute details. I'm not qualified to make these decisions. A new ''fast-track'' process would move members of Congress out of the picture of making decisions about the clinical and scientific merits of different benefits, and move the doctors and scientists in.

The Medicare Reform Act is not just about adding benefits. It's also about changing the way we do business.

We've looked to the private sector for lessons on how to run the fee-for-service program. We allow Medicare to use the same competitive tools insurance companies have in place to control costs. This will save the Medicare program money, in contrast to some other competition proposals.

We've looked to the private sector and learned that to serve seniors and providers better, we need to make an investment in the program, and provide additional administrative funds. Our bill gives the agency responsible for these programs the money to truly serve their clients, our seniors.

We've turned again to the medical and scientific experts. We've taken the decision about what Medicare should and shouldn't cover out of the hands of bureaucrats and given it to independent medical, clinical and scientific experts who have the skills to assess new technologies and procedures.

We also need to prepare for the future. The Medicare program is in the best shape it has been in over a quarter century. But, the baby-boomers are going to be joining the program soon.

We need to begin to fortify the program now, so that we are ready for them. Our bill takes modest steps in that direction by indexing the Part B deductible to inflation, and providing the Part B premium subsidy on a sliding scale basis.

While I think we need to spend the lion's share of our efforts on reforming the part of the program with the lion's share of the beneficiaries, we also need to take a close look at the Medicare+Choice program. There are several different proposals on the table to replace the current payment system with one based on competitive bidding, and we face a lot of questions regarding which of the proposals would work best.

In 1997, Senators BREAUX and Mack proposed a Medicare Competitive Pricing Demonstration Project; the Project was included in the Balanced Budget Act. The purpose of the demonstration project was to test a new method of paying plans based on a competitive market approach. It has not yet been implemented.

This demonstration project is exactly what we need to learn how to design and implement a competitive system. It is not sound to undertake a wholesale restructuring of the Medicare+Choice system without knowing what would, and would not, work.

The ''Medicare Reform Act of 2001'' would lay the groundwork for a sound, workable, competitive system by moving forward with the Demonstration project in the state of Florida.

Taken together these disparate pieces represent real reform.

Before the recess, I hope we will have passed legislation to protect basic rights of managed-care patients.

Then we need to pick up that ball and run with it.

The time is now. The money is there. The plan exists. Our seniors are waiting.

By Mr. SARBANES (for himself, Mr. BAUCUS, Mr. BAYH, Mr. CLELAND, Mr. CORZINE, Mr. DODD, Mrs. FEINSTEIN, Mr. REID, Mr. SCHUMER, Ms. SNOWE, Ms. STABENOW, Mr. THOMPSON, and Mr. WYDEN):

S. 1136. A bill to provide for mass transportation in certain Federally owned or managed areas that are open to the general public; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Mr. President, I rise today to introduce legislation to help protect our nation's natural resources and improve the visitor experience in our National Parks and Wildlife Refuges. The Transit in Parks Act, or ''TRIP,'' will establish a new Federal transit grant initiative to support the development of mass transit and alternative transportation services for our national parks, wildlife refuges, Federal recreational areas, and other public lands. I am pleased to be joined by Senators BAUCUS, BAYH, CLELAND, CORZINE, DODD, FEINSTEIN, REID, SCHUMER, SNOWE, STABENOW, THOMPSON, and WYDEN, who are cosponsors of this legislation.

Let me begin with a little history. When the National parks first opened in the second half of the nineteenth century, visitors arrived by stagecoach along dirt roads. Travel through parklands, such as Yosemite or Yellowstone, was long, difficult, and costly. Not many people could afford or endure such a trip. The introduction of the automobile gave every American greater mobility and freedom, which included the freedom to travel and see some of our Nation's great natural wonders. Early in this century, landscape architects from the National Park Service and highway engineers from the U.S. Bureau of Public Roads collaborated to produce many feats of road engineering that opened the National park lands to millions of Americans.

Yet greater mobility and easier access now threaten the very environments that the National Park Service is mandated to protect. The ongoing tension between preservation and access has always been a challenge for our national park system. Today, record numbers of visitors and cars has resulted in increasing damage to our

parks. The Grand Canyon alone has almost five million visitors a year. As many as 6,000 vehicles arrive in a single summer day. They compete for 2,400 parking spaces. Between 32,000 and 35,000 tour buses go to the park each year. During the peak summer season, the entrance route becomes a giant parking lot.

In 1975, the total number of visitors to America's national parks was 190 million. By 1999, that number has risen to 287 million annual visitors, almost equal to one visit by every man, woman, and child in this country. This dramatic increase in visitation has created an overwhelming demand on these areas, resulting in severe traffic congestion, visitor restrictions, and in some instances vacationers being shut out of the parks altogether. The environmental damage at the Grand Canyon is visible at many other pars: Yosemite, which has more than four million visitors a year; Yellowstone, which has more than three million visitors a year and experiences such severe traffic congestion that access has to be restricted; Zion; Acadia; Bryce; and many others. We need to solve these problems now or risk permanent harm to our nation's natural, cultural, and historical heritage.

Visitor access to the parks is vital not only to the parks themselves, but to the economic health of their gateway communities. For example, visitors to Yosemite infuse $3 billion a year into the local economy of the surrounding area. At Yellowstone, tourists spend $725 million annually in adjacent communities. Wildlife-related tourism generates an estimated $60 billion a year nationwide. If the parks are forced to close their gates to visitors due to congestion, the economic vitality of the surrounding region would be jeopardized.

The challenge for park management has always been twofold: to conserve and protect the Nation's natural, historical, and cultural resources, while at the same time ensuring visitor access and enjoyment of these sensitive environments. Until now, the principal transportation systems that the Federal Government has developed to provide access into our national parks are roads, primarily for private automobile access. The TRIP legislation recognizes that we need to do more than simply build roads; we must invest in alternative transportation solutions before our national parks are damaged beyond repair.

In developing solutions to the parks' transportation needs, this legislation builds upon the 1997 Memorandum of Understanding between Secretary of Transportation Rodney Slater and Secretary of the Interior Bruce Babbitt, in which the two Departments agreed to work together to address transportation and resource management needs in and around National Parks. The findings in the MOU are especially revealing: Congestion in and approaching many National Parks is causing lengthy traffic delays and backups that substantially detract from the visitor experience. Visitors find that many of the National Parks contain significant noise and air pollution, and traffic congestion similar to that found on the city streets they left behind. In many National Park units, the capacity of parking facilities at interpretive or scenic areas is well below demand. As a result, visitors park along roadsides, damaging park resources and subjecting people to hazardous safety conditions as they walk near busy roads to access visitor use areas. On occasion, National Park units must close their gates during high visitation periods and turn away the public because the existing infrastructure and transportation systems are at, or beyond, the capacity for which they were designed.

In addition, the TRIP legislation is designed to implement the recommendations from a comprehensive study of alternative transportation needs in public lands that I was able to include in the Transportation Equity Act for the 21st Century, TEA–21, as section 3039. The study is nearing completion, and is expected to confirm what those of us who have visited our National parks already know: there is a significant and well-documented need for alternative transportation solutions in the national parks to prevent lasting damage to these incomparable natural treasures.

The Transit in Parks Act will go far toward meeting this need. The bill's objectives are to develop new and expanded mass transit services throughout the national parks and other public lands to conserve and protect fragile natural, cultural, and historical resources and wildlife habitats, to prevent or mitigate adverse impact on those resources and habitats, and to reduce pollution and congestion, while at the same time facilitating appropriate visitor access and improving the visitor experience.

The new Federal transit grant program will provide funding to the Federal land management agencies that manage the 379 various sites within the National Park System, the National Wildlife Refuges, Federal recreational areas, and other public lands, including National Forest System lands, and to their state and local partners. The program will provide capital funds for transit projects, including rail or clean fuel bus projects, joint development activities, pedestrian and bike paths, or park waterway access, within or adjacent to national parks and other public lands. The bill authorizes $65 million for this new program for each of the fiscal years 2002 through 2007. It is anticipated that other resources, both public and private, will be available to augment these amounts.

The bill formalizes the cooperative arrangement in the 1997 MOU between the Secretary of Transportation and the Secretary of the Interior to exchange technical assistance and to develop procedures relating to the planning, selection and funding of transit projects in national park lands. The bill further provides funds for planning, research, and technical assistance that can supplement other financial resources available to the Federal land management agencies. The projects eligible for funding would be developed through the TEA–21 planning process and prioritized for funding by the Secretary of the Interior in consultation and cooperation with the Secretary of Transportation. It is anticipated that the Secretary of the Interior would select projects that are diverse in location and size. While major National parks such as the Grand Canyon or Yellowstone are clearly appropriate candidates for significant transit projects under this section, there are numerous small urban and rural Federal park lands that can benefit enormously from small projects, such as bike paths or improved connections with an urban or regional public transit system. No single project will receive more than 12 percent of the total amount available in any given year. This ensures a diversity of projects selected for assistance.

In addition, I firmly believe that this program will create new opportunities for the Federal land management agencies to partner with local transit agencies in gateway communities adjacent to the parks, both through the TEA–12 planning process and in developing integrated transportation systems. This will spur new economic development within these communities, as they develop transportation centers for park visitors to connect to transit links into the national parks and other public lands.

The ongoing tension between preservation and access has always been a challenge for the National Park Service. Today, that challenge has new dimensions, with overcrowding, pollution, congestion, and resource degradation increasing at many of our national parks. This legislation—the Transit in Parks Act—will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact. At the same time, transit can enhance the economic development potential of our gateway communities.

As we begin a new millennium, I cannot think of a more worthy endeavor to help our environment and preserve our national parks, wildlife refuges, and Federal recreational areas than by encouraging alternative transportation

in these areas. My bill is strongly supported by the American Public Transportation Association, the National Parks Conservation Association, Environmental Defense, Community Transportation Association, Friends of the Earth, National Association of Counties, American Planning Association, Surface Transportation Policy Project, Smart Growth America, Scenic America, National Center for Bicycling and Walking, National Association of Railroad Passengers, Great American Station Foundation, and others.

Mr. President, I urge my colleagues to support this important legislation and to recognize the enormous environmental and economic benefits that transit can bring to our national parks.

I ask unanimous consent that the bill, a section-by-section analysis, and letters of support be printed in the RECORD.

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

S. 1136

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 ''Transit in Parks Act'' or the ''TRIP Act''.

SEC. 2. FEDERAL LAND TRANSIT PROGRAM.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code, is amended by inserting after section 5315 the following:

''§ 5316. Federal land transit program

''(a) FINDINGS AND PURPOSES.—

''(1) FINDINGS.—Congress finds that—

''(A) section 3039 of the Transportation Equity Act for the 21st Century (23 U.S.C. 138 note; Public Law 105–178) required a comprehensive study, to be conducted by the Secretary of Transportation, in coordination with the Secretary of the Interior, of alternative transportation needs in national parks and related public lands in order to—

''(i) identify the transportation strategies that improve the management of national parks and related public lands;

''(ii) identify national parks and related public lands that have existing and potential problems of adverse impact, high congestion, and pollution, or that can otherwise benefit from alternative transportation modes;

''(iii) assess the feasibility of alternative transportation modes; and

''(iv) identify and estimate the costs of those alternative transportation modes;

''(B) many national parks are experiencing increased visitation and congestion and degradation of the natural, historical, and cultural resources;

''(C) there is a growing need for new and expanded mass transportation services throughout national parks to conserve and protect fragile natural, historical, and cultural resources, prevent adverse impact on those resources, and reduce pollution and congestion while facilitating appropriate visitor mobility and accessibility and improving the visitor experience;

''(D) the Department of Transportation can assist the Federal land management agencies through financial support and technical assistance and further the achievement of national goals to—

''(i) enhance the environment;

''(ii) improve mobility;

''(iii) create more livable communities;

''(iv) conserve energy; and

''(v) reduce pollution and congestion in all regions of the country;

''(E) immediate financial and technical assistance by the Department of Transportation, working with Federal land management agencies and State and local governmental authorities to develop efficient and coordinated mass transportation systems within and in the vicinity of eligible areas, is essential to—

''(i) protect and conserve natural, historical, and cultural resources;

''(ii) prevent or mitigate adverse impacts on those resources;

''(iii) relieve congestion;

''(iv) minimize transportation fuel consumption;

''(v) reduce pollution (including noise pollution and visual pollution); and

''(vi) enhance visitor mobility, accessibility, and the visitor experience; and

''(F) it is in the interest of the United States to encourage and promote the development of transportation systems for the betterment of eligible areas to meet the goals described in clauses (i) through (vi) of subparagraph (E).

''(2) PURPOSES.—The purposes of this section are—

''(A) to develop a cooperative relationship between the Secretary of Transportation and the Secretary of the Interior to carry out this section;

''(B) to encourage the planning and establishment of mass transportation systems and nonmotorized transportation systems needed within and in the vicinity of eligible areas, located in both urban and rural areas, that—

''(i) enhance resource protection;

''(ii) prevent or mitigate adverse impacts on those resources;

''(iii) improve visitor mobility, accessibility, and the visitor experience;

''(iv) reduce pollution and congestion;

''(v) conserve energy; and

''(vi) increase coordination with gateway communities;

''(C) to assist Federal land management agencies and State and local governmental authorities in financing areawide mass transportation systems and nonmotorized transportation systems to be operated by public or private mass transportation providers, as determined by local and regional needs, and to encourage public-private partnerships; and

''(D) to assist in research concerning, and development of, improved mass transportation equipment, facilities, techniques, and methods with the cooperation of public and private companies and other entities engaged in the provision of mass transportation service.

''(b) DEFINITIONS.—In this section:

''(1) ELIGIBLE AREA.—

''(A) IN GENERAL.—The term 'eligible area' means any Federally owned or managed park, refuge, or recreational area that is open to the general public.

''(B) INCLUSIONS.—The term 'eligible area' includes—

''(i) a unit of the National Park System;

''(ii) a unit of the National Wildlife Refuge System; and

''(iii) a recreational area managed by the Bureau of Land Management.

''(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

''(3) MASS TRANSPORTATION.—

''(A) IN GENERAL.—The term 'mass transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis.

''(B) INCLUSIONS.—The term 'mass transportation' includes sightseeing service.

''(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

''(A) a Federal land management agency; or

''(B) a State or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency,

alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

''(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

''(A) is an activity described in section 5302(a)(1), 5303(g), or 5309(a)(1)(A);

''(B) involves—

''(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

''(ii) the deployment of mass transportation vehicles that introduce innovative technologies or methods;

''(C) relates to the capital costs of coordinating the Federal land management agency mass transportation systems with other mass transportation systems;

''(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

''(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with the purposes described in subsection (a)(2); or

''(F) is any other mass transportation project that—

''(i) enhances the environment;

''(ii) prevents or mitigates an adverse impact on a natural resource;

''(iii) improves Federal land management agency resource management;

''(iv) improves visitor mobility and accessibility and the visitor experience;

''(v) reduces congestion and pollution (including noise pollution and visual pollution); and

''(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a nontransportation facility).

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

''(1) technical assistance in mass transportation;

''(2) interagency and multidisciplinary teams to develop Federal land management agency mass transportation policy, procedures, and coordination; and

''(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

''(d) TYPES OF ASSISTANCE.—

''(1) IN GENERAL.—The Secretary may enter into a contract, grant, cooperative agreement, interagency agreement, intra-agency agreement, or other agreement to carry out a qualified project under this section.

''(2) OTHER USES.—A grant, cooperative agreement, interagency agreement, intra-

agency agreement, or other agreement for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in mass transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

''(e) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

''(1) IN GENERAL.—The Secretary may allocate not more than 5 percent of the amount made available for a fiscal year under section 5338(j) for use by the Secretary in carrying out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

''(2) AMOUNTS FOR PLANNING, RESEARCH, AND TECHNICAL ASSISTANCE.—Amounts made available under this subsection are in addition to amounts otherwise available for planning, research, and technical assistance under this title or any other provision of law.

''(3) AMOUNTS FOR QUALIFIED PROJECTS.—No qualified project shall receive more than 12 percent of the total amount made available under section 5338(j) for any fiscal year.

''(f) PLANNING PROCESS.—In undertaking a qualified project under this section—

''(1) if the qualified participant is a Federal land management agency—

''(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

''(i) the metropolitan planning provisions under sections 5303 through 5305;

''(ii) the statewide planning provisions under section 135 of title 23; and

''(iii) the public participation requirements under section 5307(c); and

''(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

''(2) if the qualified participant is a State or local governmental authority, or more than 1 State or local governmental authority in more than 1 State, the qualified participant shall—

''(A) comply with sections 5303 through 5305;

''(B) comply with the statewide planning provisions under section 135 of title 23;

''(C) comply with the public participation requirements under section 5307(c); and

''(D) consult with the appropriate Federal land management agency during the planning process.

''(g) COST SHARING.—

''(1) DEPARTMENTAL SHARE.—The Secretary, in cooperation with the Secretary of the Interior, shall establish the share of assistance to be provided under this section to a qualified participant.

''(2) CONSIDERATIONS.—In establishing the departmental share of the net project cost of a qualified project, the Secretary shall consider—

''(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

''(B) the extent to which the qualified participant coordinates with a public or private mass transportation authority;

''(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

''(D) the clear and direct benefit to the qualified participant; and

''(E) any other matters that the Secretary considers appropriate to carry out this section.

''(3) NONDEPARTMENTAL SHARE.—Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the nondepartmental share of the cost of a qualified project.

''(h) SELECTION OF QUALIFIED PROJECTS.—

''(1) IN GENERAL.—The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

''(2) CONSIDERATIONS.—In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

''(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

''(B) the location of the qualified project, to ensure that the selected qualified projects—

''(i) are geographically diverse nationwide; and

''(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

''(C) the size of the qualified project, to ensure that there is a balanced distribution;

''(D) the historical and cultural significance of a qualified project;

''(E) safety;

''(F) the extent to which the qualified project would—

''(i) enhance livable communities;

''(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

''(iii) reduce congestion; and

''(iv) improve the mobility of people in the most efficient manner; and

''(G) any other matters that the Secretary considers appropriate to carry out this section, including—

''(i) visitation levels;

''(ii) the use of innovative financing or joint development strategies; and

''(iii) coordination with gateway communities.

''(i) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

''(1) IN GENERAL.—When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary may pay the departmental share of the net project cost of a qualified project if—

''(A) the qualified participant applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

''(2) INTEREST.—

''(A) IN GENERAL.—The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

''(B) LIMITATION.—The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

''(C) CERTIFICATION.—The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

''(j) FULL FUNDING AGREEMENT; PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is more than $25,000,000—

''(1) the qualified project shall, to the extent that the Secretary considers appropriate, be carried out through a full funding agreement in accordance with section 5309(g); and

''(2) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

''(k) RELATIONSHIP TO OTHER LAWS.—Qualified participants shall be subject to—

''(1) the requirements of section 5333;

''(2) to the extent that the Secretary determines to be appropriate, requirements consistent with those under subsections (d) and (i) of section 5307; and

''(3) any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

''(l) INNOVATIVE FINANCING.—A qualified project assisted under this section shall be eligible for funding through a State Infrastructure Bank or other innovative financing mechanism otherwise available to finance an eligible project under this chapter.

''(m) ASSET MANAGEMENT.—The Secretary may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

''(n) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

''(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other agreements for research, development, and deployment of new technologies in eligible areas that will—

''(A) conserve resources;

''(B) prevent or mitigate adverse environmental impact;

''(C) improve visitor mobility, accessibility, and enjoyment; and

''(D) reduce pollution (including noise pollution and visual pollution).

''(2) ACCESS TO INFORMATION.—The Secretary may request and receive appropriate information from any source.

''(3) FUNDING.—Grants and contracts under paragraph (1) shall be awarded from amounts allocated under subsection (e)(1).

''(o) REPORT.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit to the Committee on Transportation and Infrastructure of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the allocation of amounts to be made available to assist qualified projects under this section .

''(2) ANNUAL AND SUPPLEMENTAL REPORTS.—A report required under paragraph (1) shall be included in the report submitted under section 5309(p).''.

(b) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended by adding at the end the following:

''(j) SECTION 5316.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out section 5316 $65,000,000 for each of fiscal years 2002 through 2007.

''(2) AVAILABILITY.—Amounts made available under this subsection for any fiscal year shall remain available for obligation until the last day of the third fiscal year commencing after the last day of the fiscal year for which the amounts were initially made available under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 49, United States Code, is amended by inserting after the item relating to section 5315 the following:

''5316. Federal land transit program.''.

(2) PROJECT MANAGEMENT OVERSIGHT.—Section 5327(c) of title 49, United States Code, is amended in the first sentence—

(A) by striking ''or 5311'' and inserting ''5311, or 5316''; and

(B) by striking ''5311, or'' and inserting ''5311, 5316, or''.

(d) TECHNICAL AMENDMENTS.—Chapter 53 of title 49, United States Code, is amended—

(1) in section 5309—

(A) by redesignating subsection (p) as subsection (q); and

(B) by redesignating the second subsection designated as subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998 (112 Stat. 356)) as subsection (p);

(2) in section 5328(a)(4), by striking ''5309(o)(1)'' and inserting ''5309(p)(1)''; and

(3) in section 5337, by redesignating the second subsection designated as subsection (e) (as added by section 3028(b) of the Federal Transit Act of 1998 (112 Stat. 367)) as subsection (f).

TRANSIT IN PARKS ACT—SECTION-BY-SECTION

Section 1: Short title

The Transit in Parks (TRIP) Act.

Section 2: In general

Amends Federal transit laws by adding new section 5316, ''Federal Land Transit Program.''

Section 3: Findings and purposes

The purpose of this Act is to promote the planning and establishment of alternative transportation systems within, and in the vicinity of, the national parks and other public lands to protect and conserve natural, historical, and cultural resources, mitigate adverse impact on those resources, relieve congestion, minimize transportation fuel consumption, reduce pollution, and enhance visitor mobility and accessibility and the visitor experience. The Act responds to the need for alternative transportation systems in the national parks and other public lands identified in the study conducted by the Department of Transportation pursuant to section 3039 of TEA–21, by establishing Federal assistance to finance mass transportation projects within and in the vicinity of the national parks and other public lands, to increase coordination with gateway communities, to encourage public-private partnerships, and to assist in the research and deployment of improved mass transportation equipment and methods.

Section 4: Definitions

This section defines eligible projects and eligible participants in the program. A ''qualified participant'' is a Federal land management agency, or a State or local governmental authority acting with the consent of a Federal land management agency. A ''qualified project'' is a planning or capital mass transportation project, including rail projects, clean fuel vehicles, joint development activities, pedestrian and bike paths, waterborne access, or projects that otherwise better protect the eligible areas and increase visitor mobility and accessibility. ''Eligible areas'' are lands managed by the National Park Service, the U.S. Fish and Wildlife Service, and the Bureau of Land Management, as well as any other Federally-owned or -managed park, refuge, or recreational area that is open to the general public. Qualified projects may be located either within eligible areas or in gateway communities in the vicinity of eligible areas.

Section 5: Federal Agency cooperative arrangements

This section implements the 1997 Memorandum of Understanding between the Departments of Transportation and the Interior for the exchange of technical assistance in mass transportation, the development of mass transportation policy and coordination, and the establishment of criteria for planning, selection, and funding of projects under this section.

Section 6: Types of assistance

This section gives the Secretary of Transportation authority to provide Federal assistance through grants, cooperative agreements, inter- or intra-agency agreements, or other agreements, including leasing under certain conditions, for a qualified project under this section.

Section 7: Limitation on use of available amounts

This section specifies that the Secretary may not use more than 5% of the amounts available under this section for planning, research, and technical assistance; these amounts can be supplemented from other sources. In addition, to ensure a broad distribution of funds, no project can receive more than 12% of the total amount available under this section in any given year.

Section 8: Planning process

This section requires the Secretaries of Transportation and the Interior to cooperatively develop a planning process consistent with TEA–21 for qualified participants which are Federal land management agencies. If the qualified participant is a State or local governmental authority, the qualified participant shall comply with the TEA–21 planning process and consult with the appropriate Federal land management agency during the planning process.

Section 9: Department's share of the costs

This section requires that in determining the Department's share of the project costs, the Secretary of Transportation, in cooperation with the Secretary of the Interior, must consider certain factors, including visitation levels and user fee revenues, coordination in project development with a public or private transit provider, private investment, and whether there is a clear and direct financial benefit to the qualified participant. The intent is to establish criteria for a sliding scale of assistance, with a lower Departmental share for projects that can attract outside investment, and a higher Departmental share for projects that may not have access to such outside resources. In addition, this section specifies that funds from the Federal land management agencies can be counted toward the local share.

Section 10: Selection of qualified projects

This section provides that the Secretary of the Interior, in cooperation with the Secretary of Transportation, shall prioritize the qualified projects for funding in an annual program of projects, according to the following criteria: (1) project justification, including the extent to which the project conserves resources, prevents or mitigates adverse impact, and enhances the environment; (2) project location to ensure geographic diversity and both rural and urban projects; (3) project size for a balanced distribution; (4) historical and cultural significance; (5) safety; (6) the extent to which the project would enhance livable communities, reduce pollution and congestion, and improve the mobility of people in the most efficient manner; and (7) any other considerations the Secretary deems appropriate, including visitation levels, the use of innovative financing or joint development strategies, and coordination with gateway communities.

Section 11: Undertaking projects in advance

This provision applies current transit law to this section, allowing projects to advance prior to receiving Federal funding, but allowing the advance activities to be counted toward the local share as long as certain conditions are met.

Section 12: Full funding agreement; project management plan

This section provides that large projects require a project management plan, and shall be carried out through a full funding agreement to the extent the Secretary considers appropriate.

Section 13: Relationship to Other Laws

This provision applies certain transit laws to projects funded under this section, and permits the Secretary to apply any other terms or conditions he or she deems appropriate.

Section 14: Innovative financing

This section provides that a project assisted under this Act can also use funding from a State Infrastructure Bank or other innovative financing mechanism that is available to fund other eligible transit projects.

Section 15: Asset management

This provision permits the Secretary of Transportation to transfer control over a transit asset acquired with Federal funds under this section to a qualified government participant in accordance with certain Federal property management rules.

Section 16. Coordination of research and deployment of new technologies

This provision allows the Secretary, in cooperation with the Secretary of the Interior, to enter into grants or other agreements for research and deployment of new technologies to meet the special needs of eligible areas under this Act.

Section 17: Report

This section requires the Secretary of Transportation to submit a report on projects funded under this section to the House Transportation and Infrastructure Committee and the Senate Banking, Housing, and Urban Affairs Committee, to be included in the Department's annual project report.

Section 18: Authorization

$65,000,000 is authorized to be appropriated for the Secretary to carry out this program for each of the fiscal years 2002 through 2007.

Section 19: Conforming amendments

Confirming amendments to the transit title, including an amendment to allow 0.5% per year of the funds made available under this section to be used for project management oversight.

Section 20: Technical amendments

Technical corrections to the transit title in TEA–21.

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
Washington, DC, June 6, 2001.

Hon. PAUL S. SARBANES,
Chairman, Committee on Banking, Housing, and Urban Affairs,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: Thank you for sharing with us a copy of the ''Transit in Parks (TRIP) Act'' which would amend the federal transit law at chapter 53, title 49 U.S.C.

The Act would authorize federal assistance to certain federal agencies and state and local entities to finance mass transportation projects generally for the purpose of addressing transportation congestion and mobility issues at national parks and other eligible areas. In addition, the legislation would encourage enhanced cooperation between the Departments of Transportation and Interior regarding joint efforts of those federal agencies to encourage the use of public transportation at national parks.

I am pleased to support your efforts to improve mobility in our national parks. Public transportation clearly has much to offer citizens who visit these national treasures, where congestion and pollution are significant—and growing—problems. Moreover, this legislation should broaden the base of support for public transportation, a key principle APTA has been advocating for many years. In that regard, we will review your bill with APTA's legislative leadership.

I applaud you for writing the legislation, and look forward to continuing to work with you and your staff. Let us know what we can do to help your initiative!

Sincerely yours,

WILLIAM W. MILLAR,
President.

NATIONAL PARKS CONSERVATION ASSOCIATION,
Washington, DC, May 23, 2001.

Hon. PAUL SARBANES,
Hart Office Building,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the National Parks Conservation Association (NPCA) and its over 400,000 members, I want to thank you for proposing the Transit in Parks Act that will enhance transit options for access to and within our national parks. NPCA applauds your leadership and foresight in recognizing the critical role that mass transit can play in protecting our parks and improving the visitor experience.

Visitation to America's national parks has skyrocketed during the past two decades, from 190 million visitors in 1975 to approximately 286 million visitors last year. Increased public interest in these special places has placed substantial burdens on the very resources that draw people to the parks. As more and more individuals crowd into our national parks—typically by automobile—fragile habitat, endangered plants and animals, unique cultural treasures, and spectacular natural resources and vistas are being damaged from air and water pollution, noise intrusion, and inappropriate use.

As outlined in your legislation, the establishment of a program within the Department of Transportation dedicated to enhancing transit options in and adjacent to the national parks will have a powerful, positive effect on the future ecological and cultural integrity of the parks. Your initiative will boost the role of alternative transportation solutions for national parks, particularly those most heavily impacted by visitation such as Yellowstone-Grand Teton, Yosemite, Grand Canyon, Acadia, and the Great Smoky Mountains national parks. For instance, development of transportation centers and auto parking lots outside the parks, complemented by the use of buses, vans, or rail systems, and/or bicycle and pedestrian pathways would provide much more efficient means of handling the crush of visitation. The benefit of such systems has already been demonstrated in a number of parks such as Zion and Cape Cod.

Equally important, the legislation will provide an excellent opportunity for the National Park Service (NPS) to enter into public/private partnerships with states, localities, and the private sector, providing a wider range of transportation options than exists today. These partnerships could leverage funds that NPS currently has great difficulty accessing.

NPCA wholeheartedly endorses your bill as a creative new mechanism to fulfill the primary mission of the National Park System: ''to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.''

We look forward to working with you to move this legislation to enactment

Sincerely,

THOMAS C. KIERNAN,
President.

FRIENDS OF THE EARTH,
June 27, 2001.

Hon. PAUL SARBANES,
Hart Office Building,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of Friends of the Earth, I want to thank you for proposing the Transit in Parks Act. This important bill will enhance transit options for access to and within our national parks. Your leadership in this matter is greatly appreciated.

Americans are visiting our national parks at an unprecedented rate, with visitation growing from 190 million visitors in 1975 to approximately 286 million visitors last year. With increased visitation comes an increased burden on the parks. As more and more individuals take their cars into our national parks, fragile habitat, endangered plants and animals, unique cultural treasures, and spectacular natural resources and vistas are being damaged from air and water pollution, noise intrusion, and inappropriate use.

Your innovative legislation would establish a program within the Department of Transportation dedicated to enhancing transit options in and adjacent to the national parks. This is of vital importance for the future of our national parks. Your initiative will boost the role of alternative transportation solutions for national parks, particularly those most heavily impacted by visitation. For instance, development of transportation centers and auto parking lots outside the parks, complemented by the use of buses, vans, or rail systems, and/or bicycle and pedestrian pathways would provide much more efficient means of handling the crush of visitation. The benefit of such systems has already been demonstrated in a number of parks such as Zion and Cape Cod.

We look forward to working with you to move this legislation to enactment.

Sincerely,

DAVID HIRSCH,
Transportation Policy Coordinator.

ENVIRONMENTAL DEFENSE,
Washington, DC, May 22, 2001.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: I am writing on behalf of the Environmental Defense Fund and our 300,000 members to express support for your bill, the Transit in Parks Act, which will provide dedicated funding for transit projects in our national parks. Too many of our parks suffer from the consequences of poor transportation systems; traffic congestion, air and water pollution, and disturbance of natural ecosystems.

Increased funding for attractive and effective transit services to and within our national parks is essential to mitigating these growing problems. A good working transit system in a number of our national parks will make the park experience not only more enjoyable for the many families that travel there, it will help improve environmental conditions. Air pollutants that exacerbate respiratory health problems, damage vegetation, and contribute to haze which too often obliterates the views at our parks, will be abated by decreasing the number of cars and congestion levels in the parks. Improved transit related to our parks is key to diversifying transportation choices and access for the benefit of all who might visit our national park system. It is also vital to assuring equal access for all citizens to our parks, including those without cars.

We appreciate your leadership on this issue and your dedication to the health of our national parks and expanded choices in our transportation systems. We look forward to working with you to move your legislation forward.

Sincerely,

MICHAEL REPLOGLE,
Transportation Director.

COMMUNITY TRANSPORTATION ASSOCIATION,
Washington, DC, June 7, 2001.

Hon. PAUL SARBANES,
Committee on Banking, Housing and Urban Affairs,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: The Community Transportation Association continues to support your efforts to provide alternative transportation strategies in our national parks and other public lands. Our association's 3,400 members provide public and community transportation services in many of the smaller communities that border these national parks, monuments, and recreational areas, and our association has members actively involved in providing transportation services at several national parks.

All of us know the danger that congestion and increases in traffic pose for the future of these sites and locations. Your continued sponsorship of the Transit in Parks Act is an important step in helping ensure that America's natural beauty and historic treasures remain a continuous part of our nation's future. We have members throughout the country whose experiences support the principle that public transit investments in and near national parks and public lands can improve mobility, support the economic vitality of these parks' ''gateway communities,'' and make dramatic improvements in the experiences of park visitors, employees, and community residents alike.

As an illustration of this point, enclosed is an article recently published in our Community Transportation magazine that discusses public transportation as part of the solution to traffic congestion and mobility issues in Acadia, Yosemite and Zion National Parks. These success stories could be replicated in many other communities under your Transit in Parks proposal.

We appreciate your dedicated efforts and initiative in this regard, and look forward to helping you advance this important piece of legislation.

Sincerely,

DALE J. MARSICO,
Executive Director.

AMENDMENTS SUBMITTED AND PROPOSED

SA 831. Mr. BOND (for himself, Mr. ROBERTS, and Mr. HELMS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

SA 832. Mr. FRIST (for himself, Mr. BREAUX, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 833. Mr. WARNER proposed an amendment to the bill S. 1052, supra.

SA 834. Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON, of Nebraska, Mr. SPECTER, Mr. MCCAIN, Mr. BAUCUS, Ms. STABENOW, and Mr. CHAFEE) proposed an amendment to the bill S. 1052, supra.

SA 835. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 836. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 837. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 838. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, supra; which was ordered to lie on the table.

SA 839. Mrs. HUTCHISON (for herself and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill S. 1052, supra.

SA 840. Mr. ENZI proposed an amendment to the bill S. 1052, supra.

SA 841. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 842. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1052, supra.

SA 843. Mr. GRAMM (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1052, supra.

SA 844. Mr. SPECTER proposed an amendment to the bill S. 1052, supra.

SA 845. Mr. GRASSLEY proposed an amendment to the bill S. 1052, supra.

SA 846. Mr. NICKLES (for himself and Mr. ENSIGN) proposed an amendment to the bill S. 1052, supra.

SA 847. Mr. BROWNBACK proposed an amendment to the bill S. 1052, supra.

SA 848. Mr. ENSIGN proposed an amendment to the bill S. 1052, supra.

SA 849. Mr. ENSIGN proposed an amendment to the bill S. 1052, supra.

TEXT OF AMENDMENTS

SA 831. Mr. BOND (for himself, Mr. ROBERTS, and Mr. HELMS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 154, between lines 2 and 3, insert the following:

''(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

''(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

''(C) DEFINITIONS.—In this paragraph:

''(i) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred in connection with such representation or work.

''(ii) AWARD.—The term 'award' means the sum of—

''(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

''(aa) final court decision;

''(bb) court order;

''(cc) settlement agreement;

''(dd) arbitration procedure; or

''(ee) alternative dispute resolution procedure (including mediation); plus

''(II) any attorney's fees awarded under subsection (g)(1) with respect to the participant or beneficiary (or estate); less

''(III) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.

On page 169, between lines 12 and 13, insert the following:

''(11) MINIMUM SHARE OF SETTLEMENT OF AWARD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a participant or beneficiary (or the estate of such participant or beneficiary) shall receive not less than 85 percent of any award made as a result of a cause of action brought by the participant or beneficiary (or estate) under this subsection, after subtracting the amount of any attorneys' fees from the total amount of such award.

''(B) EXCEPTION.—This paragraph shall not apply where the amount awarded as a result of a cause of action brought by a participant or beneficiary (or estate) under this subsection is less than $100,000.

''(C) DEFINITIONS.—In this paragraph:

''(i) ATTORNEYS' FEES.—The term 'attorneys' fees' means any compensation for the direct or indirect representation or other legal work performed in connection with a cause of action brought under this subsection. Such term shall not include reimbursements for any expenses incurred in connection with such representation or work.

''(ii) AWARD.—The term 'award' means the sum of—

''(I) any monetary consideration provided to a participant or beneficiary (or the estate of such participant or beneficiary) by a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with a group health plan, or an agent of the plan, issuer, or plan sponsor in connection with a cause of action brought under this subsection, including any monetary consideration provided for in any—

''(aa) final court decision;

''(bb) court order;

''(cc) settlement agreement;

''(dd) arbitration procedure; or

''(ee) alternative dispute resolution procedure (including mediation); less

''(II) any reimbursement for any expenses incurred in connection with direct or indirect representation or other legal work performed in connection with a cause of action under this subsection.''

SA 832. Mr. FRIST (for himself, Mr. BREAUX, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 105, line 2, after ''treatment'' insert the following: ''The name of the designated decision-maker (or decision-makers) appointed under section 502(n)(2) of the Employee Retirement Income Security Act of 1974 for purposes of making final determinations under section 103 and approving coverage pursuant to the written determination of an independent medical reviewer under section 104.''.

Beginning on page 139, strike line 21 and all that follows through line 14 on page 171, and insert the following:

SEC. 302. AVAILABILITY OF COURT REMEDIES.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) CAUSE OF ACTION RELATING TO DENIAL OF A CLAIM FOR HEALTH BENEFITS.—

''(1) IN GENERAL.—

''(A) FAILURE TO COMPLY WITH EXTERNAL MEDICAL REVIEW.—With respect to an action commenced by a participant or beneficiary (or the estate of the participant or beneficiary) in connection with a claim for benefits under a group health plan, if—

''(i) a designated decision-maker described in paragraph (2) fails to exercise ordinary care in approving coverage pursuant to the written determination of an independent medical reviewer under section 104(d)(3)(F) of the Bipartisan Patient Protection Act that reverses a denial of the claim for benefits; and

''(ii) the failure described in clause (i) is the proximate cause of substantial harm (as defined in paragraph (10)(G)) to the participant or beneficiary;

such designated decision-maker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

''(B) WRONGFUL DETERMINATION RESULTING IN DELAY IN PROVIDING BENEFITS.—With respect to an action commenced by a participant or beneficiary (or the estate of the participant or beneficiary) in connection with a claim for benefits under a group health plan, if—

''(i) a designated decision-maker described in paragraph (2)—

''(I) fails to exercise ordinary care in making a determination denying the claim for benefits under section 102 of the Bipartisan Patient Protection Act (relating to an initial claim for benefits); or

''(II) fails to exercise ordinary care in making a determination denying the claim for benefits under section 103 of such Act (relating to an internal appeal);

''(ii) the denial described in clause (i) is reversed by an independent medical reviewer under section 104(d) of such Act, or the coverage for the benefit involved is approved after the denial is referred to the independent medical reviewer but prior to the determination of the reviewer under such section; and

''(iii) the delay attributable to the failure described in clause (i) is the proximate cause of substantial harm to, or the wrongful death of, the participant or beneficiary;

such designated decision-maker shall be liable to the participant or beneficiary (or the estate) for economic and noneconomic damages in connection with such failure and such injury or death (subject to paragraph (4)).

''(C) LIMITATION ON LIABILITY BASED ON APPOINTMENT OF DESIGNATED DECISION-MAKER.—If a plan sponsor or named fiduciary appoints a designated decision-maker in accordance with paragraph (2), the plan sponsor or named fiduciary, or any other person or group health plan (or their employees) associated with the plan sponsor or named fiduciary, shall not be liable under this paragraph. The appointment of a designated decision-maker in accordance with paragraph (2) shall not affect the liability of the appointing plan sponsor or named fiduciary for the failure of the plan sponsor or named fiduciary to comply with any other requirement of this title.

''(D) PREVENTION OF DUPLICATION OF ACTION WITH ACTION UNDER STATE LAW.—No action may be brought under this subsection based upon facts and circumstances if a cause of action under State law is brought based upon the same facts and circumstances.

''(2) DESIGNATED DECISION-MAKER.—

''(A) APPOINTMENT.—

''(i) IN GENERAL.—The plan sponsor or named fiduciary of a group health plan shall, in accordance with this paragraph, designate one or more persons to serve as a designated decision-maker with respect to causes of action described in subparagraphs (A) and (B) of paragraph (1), except that—

''(I) with respect to health insurance coverage offered in connection with a group health plan, the health insurance issuer shall be the designated decision-maker unless the plan sponsor and the issuer specifically agree in writing (on a form to be prescribed by the Secretary) to substitute another person as the designated decision-maker; or

''(II) with respect to the designation of a person other than a plan sponsor or health insurance issuer, such person shall satisfy the requirements of subparagraph (D).

''(ii) PLAN DOCUMENTS.—The designated decision-maker shall be specifically designated as such in the written instruments of the plan (under section 402(a)) and be identified as required under section 121(b)(14) of the Bipartisan Patient Protection Act.

''(B) AUTHORITY.—A designated decision-maker appointed under subparagraph (A) shall have the exclusive authority under the group health plan—

''(i) to make determinations with respect to a claim for benefits under section 102 of the Bipartisan Patient Protection Act (relating to an initial claim for benefits);

''(ii) to make final determinations under section 103 of such Act (relating to an internal appeal); or

''(iii) to approve coverage pursuant to the written determination of independent medical reviewers under section 104 of such Act.

''(C) ALLOCATION OF RESPONSIBILITY.—Responsibility may be allocated among different designated decision-makers with respect to—

''(i) for purposes of paragraph (1)(A), the approval of coverage under section 104 of the Bipartisan Patient Protection Act;

''(ii) for purposes of paragraph (1)(B), making determinations on a claim for benefits under section 102 of such Act (relating to an initial claim for benefits); and

''(iii) for purposes of paragraph (1)(B), making final determinations on claims for benefits under section 103 of such Act (relating to internal appeals),

except that not more than one designated decision-maker may be appointed with respect to each level of review under clauses (i), (ii), and (iii). Where such an allocation is made, liability under a cause of action under paragraph (1) shall be assessed against the appropriate designated decision-maker.

''(D) QUALIFICATIONS.—

''(i) CERTIFICATION OF ABILITY.—To be appointed as a designated decision-maker under this paragraph, a person shall provide to the plan sponsor or named fiduciary a certification of such person's ability to meet the requirements of clause (ii) relating to financial obligation for liability under this subsection. Such certification shall be provided upon appointment and not less frequently than annually thereafter, or if the designation is pursuant to a multi-year contract, in conjunction with the renewal of the contract, but in no case less than once every 3 years.

''(ii) OTHER REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of clause (i), requirements relating to financial obligation for liability shall include evidence of—

''(I) coverage of the person under insurance policies or other arrangements, secured and maintained by the person, to insure the person against losses arising from professional liability claims, including those arising from being designated as a designated decision-maker under this paragraph; or

''(II) minimum capital and surplus levels that are maintained by the person to cover any losses as a result of liability arising from being designated as a designated decision-maker under this paragraph.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subclauses (I) and (II) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and shall be maintained throughout the course of the contract in which such person is designated as a designated decision-maker.

''(E) FLEXIBILITY IN ADMINISTRATION.—A group health plan, or health insurance issuer offering health insurance coverage in connection with a group health plan, may provide—

''(i) that any person or group of persons may serve in more than one capacity with respect to the plan or coverage (including service as a designated decision-maker, administrator, and named fiduciary); or

''(ii) that a designated decision-maker may employ one or more persons to provide advice with respect to any responsibility of such decision-maker under the plan or coverage.

''(F) FAILURE TO APPOINT.—

''(i) IN GENERAL.—With respect to any cause of action under paragraph (1) relating to a denial of a claim for benefits where a designated decision-maker has not been appointed in accordance with this paragraph, the plan sponsor or named fiduciary responsible for determinations under section 503 shall be deemed to be the designated decision-maker.

''(ii) LIMITATION ON APPOINTMENT.—A treating health care professional who directly delivered the care, treatment, or provided the patient service that is the subject of an action under this subsection may not be designated as a designated decision-maker under this paragraph unless the professional—

''(I) is a person or entity that may be appointed in accordance with subparagraph (A); and

''(II) specifically agrees to accept such appointment in accordance with the requirements under such subparagraph.

''(3) REQUIREMENT OF EXHAUSTION OF INDEPENDENT MEDICAL REVIEW.—

''(A) IN GENERAL.—Paragraph (1) shall apply only if a final determination denying a claim for benefits under section 103 of the Bipartisan Patient Protection Act has been referred for independent medical review under section 104(d) of such Act and a written determination by an independent medical reviewer to reverse such final determination has been issued with respect to such review or where the coverage for the benefit involved is approved after the denial is referred to the independent medical reviewer but prior to the determination of the reviewer under such section.

''(B) EXCEPTION TO EXHAUSTION FOR NEEDED CARE.—A participant or beneficiary may seek relief under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under section 103 or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court, by a preponderance of the evidence, that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Any determinations that already have been made under section 102, 103, or 104 of such Act in such case, or that are made in such case while an action under this subparagraph is pending, shall be given due consideration by the court in any action under this subsection in such case. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available under—

''(i) paragraph (1), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met; or

''(ii) subsection (q) unless the requirements of such subsection are met.

''(4) LIMITATIONS ON RECOVERY OF DAMAGES.—

''(A) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—The aggregate amount of liability for noneconomic loss in an action under paragraph (1) may not exceed the greater of—

''(i) $750,000; or

''(ii) an amount equal to 3 times the amount awarded for economic loss.

''(B) INCREASE IN AMOUNT.—The amount referred to in subparagraph (A)(i) shall be increased or decreased, for each calendar year that ends after December 31, 2002, by the same percentage as the percentage by which the Consumer Price Index for All Urban Consumers (United States city average), published by the Bureau of Labor Statistics, for September of the preceding calendar year has increased or decreased from the such Index for September of 2002.

''(C) SEVERAL LIABILITY.—In the case of any action commenced pursuant to paragraph (1), the designated decision-maker shall be liable only for the amount of noneconomic damages attributable to such designated decision-maker in direct proportion to such decision-maker's share of fault or responsibility for the injury suffered by the participant or beneficiary. In all such cases, the liability of a designated decision-maker for noneconomic damages shall be several and not joint.

''(D) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

''(i) IN GENERAL.—In the case of any action commenced pursuant to paragraph (1), the total amount of damages received by a participant or beneficiary under such action shall be reduced, in accordance with clause (ii), by any other payment that has been, or will be, made to such participant or beneficiary, pursuant to an order or judgment of another court, to compensate such participant or beneficiary for the injury that was the subject of such action.

''(ii) AMOUNT OF REDUCTION.—The amount by which an award of damages to a participant or beneficiary for an injury shall be reduced under clause (i) shall be—

''(I) the total amount of any payments (other than such award) that have been made or that will be made to such participant or beneficiary to pay costs of or compensate such participant or beneficiary for the injury that was the subject of the action; less

''(II) the amount paid by such participant or beneficiary (or by the spouse, parent, or legal guardian of such participant or beneficiary) to secure the payments described in subclause (I).

''(iii) DETERMINATION OF AMOUNTS FROM COLLATERAL SOURCES.—The reduction required under clause (ii) shall be determined by the court in a pretrial proceeding. At the subsequent trial no evidence shall be admitted as to the amount of any charge, payments, or damage for which a participant or beneficiary—

''(I) has received payment from a collateral source or the obligation for which has been assured by a third party; or

''(II) is, or with reasonable certainty, will be eligible to receive from a collateral source which will, with reasonable certainty, be assumed by a third party.

''(E) PROHIBITION OF AWARD OF PUNITIVE DAMAGES.—Notwithstanding any other provision of law, in the case of any action commenced pursuant to paragraph (1), the court may not award any punitive, exemplary, or similar damages against a defendant.

''(5) AFFIRMATIVE DEFENSES.—In the case of any cause of action under paragraph (1), it shall be an affirmative defense that—

''(A) the designated decision-maker of a group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, involved did not receive from the participant or beneficiary (or authorized representative) or the treating health care professional (if any), the information requested by the plan or issuer regarding the medical condition of the participant or beneficiary that was necessary to make a determination on a claim for benefits under section 102 of the Bipartisan Patient Protection Act or a final determination on a claim for benefits under section 103 of such Act;

''(B) the participant or beneficiary (or authorized representative)—

''(i) was in possession of facts that were sufficient to enable the participant or beneficiary (or authorized representative) to know that an expedited review under section 102, 103, or 104 of such Act would have prevented the harm that is the subject of the action; and

''(ii) failed to notify the plan or issuer of the need for such an expedited review; or

''(C) the qualified external review entity or an independent medical reviewer failed to meet the timelines applicable under section 104 of such Act, or a period of time elapsing after coverage has been authorized.

Nothing in this paragraph shall be construed to limit the application of any other affirmative defense that may be applicable to the cause of action involved.

''(6) WAIVER OF INTERNAL REVIEW.—In the case of any cause of action under paragraph (1), the waiver or nonwaiver of internal review under section 103(a)(4) of the Bipartisan Patient Protection Act by the group health plan, or health insurance issuer that offers health insurance coverage in connection with a group health plan, shall not be used in determining liability.

''(7) LIMITATIONS ON ACTIONS.—Paragraph (1) shall not apply in connection with any action that is commenced more than 3 years after the date on which the failure described in paragraph (1) occurred.

''(8) PROTECTION OF THE REGULATION OF QUALITY OF MEDICAL CARE UNDER STATE LAW.—Nothing in this subsection shall be construed to preclude any action under State law against a person or entity for liability or vicarious liability with respect to the delivery of medical care. A claim that is based on or otherwise relates to a group health plan's administration or determination of a claim for benefits (as such term is defined in section 102(e)(2) of the Bipartisan Patient Protection Act and notwithstanding the definition contained in paragraph (10)(B)) shall not be deemed to be the delivery of medical care under any State law for purposes of this section. Any such claim shall be maintained exclusively under section 502.

''(9) CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing a cause of action under paragraph (1) for the failure of a group health plan or health insurance issuer to provide an item or service that is specifically excluded under the plan or coverage.

''(10) DEFINITIONS.—In this subsection:

''(A) AUTHORIZED REPRESENTATIVE.—The term 'authorized representative' has the meaning given such term in section 102(e)(1) of the Bipartisan Patient Protection Act.

''(B) CLAIM FOR BENEFITS.—Except as provided for in paragraph (8), the term 'claim for benefits' shall have the meaning given such term in section 103(e)(2) of the Bipartisan Patient Protection Act, except that such term shall only include claims for which prior authorization is required (as such term is defined in section 151(c)(9) of such Act)).

''(C) GROUP HEALTH PLAN.—The term 'group health plan' shall have the meaning given such term in section 733(a). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

''(D) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 733(b)(1). In applying this paragraph, excepted benefits described in section 733(c) shall not be treated as benefits consisting of medical care.

''(E) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 733(b)(2).

''(F) ORDINARY CARE.—The term 'ordinary care' means the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in making a determination on a claim for benefits of a similar character.

''(G) SUBSTANTIAL HARM.—The term 'substantial harm' means the loss of life, loss or significant impairment of limb or bodily function, significant mental illness or disease, significant disfigurement, or severe and chronic physical pain.''.

(b) AUTHORITY TO IMPOSE CIVIL PENALTIES FOR FAILURE TO PROVIDE A PLAN BENEFIT NOT ELIGIBLE FOR MEDICAL REVIEW.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsection (a), is further amended by adding at the end the following:

''(o) AUTHORITY TO IMPOSE CIVIL PENALTIES FOR FAILURE TO PROVIDE A PLAN BENEFIT NOT ELIGIBLE FOR MEDICAL REVIEW.—In connection with any action maintained under subsection (a)(1)(B), the court, in its discretion, may assess a civil penalty against the designated decision-maker (as designated pursuant to section 502(n)(2)) of a group health plan or a health insurance issuer (that offers health insurance coverage in connection with a group health plan) of not to exceed $100,000 where—

''(1) in its final determination under section 103(d)(2) of the Bipartisan Patient Protection Act, the designated decision-maker fails to provide, or authorize coverage of, a benefit to which a participant or beneficiary is entitled under the terms and conditions of the plan;

''(2) the participant or beneficiary has appealed such determination under section 104 of such Act and such determination is not subject to independent medical review as determined by a qualified external review entity under section 104(c)(3)(A) of such Act;

''(3) the plan has failed to exercise ordinary care in making a final determination under section 103(d)(2) of such Act denying a claim for benefits under the plan; and

''(4) that denial is the proximate cause of substantial harm (as defined in subsection (n)(10)(G)) the participant or beneficiary.''.

(c) LIMITATION ON CERTAIN CLASS ACTION LITIGATION.—

(1) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by subsections (a) and (b), is further amended by adding at the end the following:

''(p) LIMITATION ON CLASS ACTION LITIGATION.—

''(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants,

may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.''.

''(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after the date of enactment of the Bipartisan Patient Protection Act. This subsection shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to such date of enactment.''.

(2) RICO.—Section 1964(c) of title 18, United States Code, is amended—

(1) by inserting ''(1)'' after the subsection designation; and

(2) by adding at the end the following:

''(2)(A) No action may be brought under this subsection, or alleging any violation of section 1962, where the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974. In this paragraph, the terms 'group health plan' and 'health insurance issuer' shall have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

''(B) Subparagraph (A) shall apply to civil actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act and all actions commenced on or after such date.''.

(d) CONFORMING AMENDMENT.—Section 502(a)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(1)(A)) is amended by inserting ''or (n)'' after ''subsection (c)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after October 1, 2002.

SA 833. Mr. WARNER proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 154, between lines 2 and 3, insert the following:

''(11) LIMITATION ON AWARD OF ATTORNEYS' FEES.—

''(A) IN GENERAL.—Subject to subparagraph (C), with respect to a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under this subsection and prevails in that action, the amount of attorneys' fees that a court may award to such participant, beneficiary, or estate under subsection (g)(1) (not including the reimbursement of actual out-of-pocket expenses of an attorney as approved by the court in such action) may not exceed the sum of the amounts described in subparagraph (B).

''(B) AMOUNTS DESCRIBED.—For purposes of subparagraph (A), the amounts described in this subparagraph are as follows:

''(i) With respect to a recovery in a cause of action described in subparagraph (A) that does not exceed $100,000, the amount of attorneys' fees awarded may not exceed an amount equal to ⅓ of the amount of the recovery.

''(ii) With respect to a recovery in such a cause of action that exceeds $100,000 but does not exceed $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 25 percent of such excess recovery above $100,000.

''(iii) With respect to a recovery in such a cause of action that exceeds $500,000, the amount of the attorneys' fees awarded may not exceed an amount equal to 15 percent of such excess recovery above $500,000.

''(C) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of an award of attorneys' fees required under subparagraph (A) as equity and the interests of justice may require.

On page 170, between lines 21 and 22, insert the following:

''(9) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding attorneys' fees, subject to subparagraph (B), a court shall limit the amount of attorneys' fees that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings a cause of action under paragraph (1) to the amount of attorneys' fees that may be awarded under section 502(n)(11).

''(B) EQUITABLE DISCRETION.—A court in its discretion may adjust the amount of attorneys' fees allowed under subparagraph (A) as equity and the interests of justice may require.''

SA 834. Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. DEWINE, Mr. NELSON of Nebraska, Mr. SPECTER, Mr. MCCAIN, Mr. BAUCUS, Ms. STABENOW, and Mr. CHAFEE) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 106, between lines 16 and 17, insert the following:

(19) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(o) of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.

On page 141, strike lines 16 through 21, and insert the following: ''tions of the plan or coverage, and''.

On page 142, lines 10 and 11, strike ''or the failure described in clause (ii)''.

On page 143, strike lines 12 through 18, and insert the following: ''benefits of like kind to the claims involved.''.

On page 145, strike lines 15 through 20, and insert the following: ''of a denial of a claim for benefits.''.

Beginning on page 145, strike line 22 and all that follows through line 6 on page 146, and insert the following:

''(i) IN GENERAL.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

On page 146, line 14, strike ''clause (i) of''.

On page 146, strike lines 16 through 20, and insert the following: ''or beneficiary, including (but not lim-''.

On page 148, between lines 23 and 24, insert the following:

''(D) APPLICATION TO CERTAIN PLANS.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) shall be liable under paragraph (1) for the performance of, or the failure to perform, any nonmedically reviewable duty under the plan.

''(ii) DEFINITION.—A group health plan described in this clause is—

''(I) a group health plan that is self-insured and self administered; or

''(II) a group health plan that is maintained by one or more employers or employee organizations described in section 3(16)(B)(iii).

On page 156, between lines 15 and 16, insert the following:

''(17) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

''(A) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (5)(C)(i)) of an employer or plan sponsor, in any case in which there is deemed to be a designated decisionmaker under subparagraph (B) that meets the requirements of subsection (o)(1) for an employer or other plan sponsor—

''(i) all liability of such employer or plan sponsor (and any employee thereof acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

''(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or plan sponsor (or employee) in the action and may not raise any defense that the employer or plan sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

''(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

''(18) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

''(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

''(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

''(19) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

''(o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

''(1) IN GENERAL.—For purposes of subsection (n)(17) and section 514(d)(9), a designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

''(A) such designation is in such form as may be prescribed in regulations of the Secretary,

''(B) the designated decisionmaker—

''(i) meets the requirements of paragraph (2),

''(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee thereof acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(17) or section 514(d)(9) is in effect relating to such participant and beneficiary,

''(iii) agrees to be substituted for the employer or plan sponsor (or employee) in the action and not to raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

''(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, and

''(C) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(19) of the Bipartisan Patient Protection Act.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

''(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(17)(B) or section 517(d)(9)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

''(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issue, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

''(3) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

''(A) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this part; or

''(B) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this part.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect.

''(4) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decisionmaker under this subsection with respect to such participant or beneficiary.

Beginning on page 161, strike line 14, and all that follows through line 13 on page 162, and insert the following:

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action that is brought by a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment) if such cause of action arises by reason of a medically reviewable decision, to the extent that there was direct participation by the employer or other plan sponsor (or employee) in the decision.

On page 162, lines 19 and 20, strike ''(i) or a failure described in subparagraph (B)(ii)''.

On page 163, line 6, strike ''paragraph (B)(i)'' and insert ''paragraph (B)''.

On page 163, line 8, strike ''or that'' and all that follows through ''ficiary'' on line 11.

On page 170, between lines 21 and 22, insert the following:

''(9) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

''(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action provides for liability of an employer or plan sponsor (or an employee thereof acting within the scope of employment) with respect to a participant or beneficiary, if with respect to the employer or plan sponsor there is deemed to be a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law against the designated decisionmaker of such employer or other plan sponsor with respect to the participant or beneficiary.

''(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

''(10) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

''(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

''(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

''(11) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

SA 835. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 119, between lines 5 and 6, insert the following:

SEC. 136. PRESERVATION OF THE HIPPOCRATIC OATH.

(a) IN GENERAL.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a physician (or group of physicians) shall require that such physician—

(1) provide notice to each participant, beneficiary, or enrollee that the physician treats of whether or not the physician has taken and upholds the Hippocratic Oath; and

(2) in the case of a physician who notifies such participant, beneficiary, or enrollee that the physician does not uphold any part of the Oath, disclose the part of the Oath to which he or she does not subscribe.

(b) SPECIFIC AREAS OF DISCLOSURE.—A physician making a disclosure under subsection (a)(2) shall, in particular, disclose the following:

(1) That the physician does not hold the patient's health above all other consideration as in accordance with the Hippocratic Oath.

(2) That in violation of the Hippocratic oath the physician engages in physical relationships with his or her patients.

(3) That the physician does not preserve the confidentiality of his or her patients, as is required by the Hippocratic Oath.

(4) That in direct violation of the Hippocratic Oath the physician engages in euthanasia, or suggests council to assist in suicide.

(5) That the physician, in violation of the Hippocratic Oath, performs abortions.

(c) COVERAGE OF OTHER PHYSICIANS.—If a participant, beneficiary or enrollee receives a notice under subsection (a) that a physician has not taken or does not uphold the Hippocratic Oath, the group health plan or health insurance issuer involved shall permit such participant, beneficiary or enrollee to select another physician who has taken or does uphold the Oath. The plan or issuer shall provide coverage for the treatment of services provided by a physician selected under the previous sentence regardless of whether such physician is in the plan or coverage network.

(d) LIMITATION.—Nothing in this section shall be construed to preempt or supersede any State licensure or scope-of-practice law.

SA 836. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 171, between lines 14 and 15, insert the following:

SEC. 303. DEDICATION OF PUNITIVE DAMAGES FOR THE PURCHASE OF HEALTH INSURANCE COVERAGE.

(a) AWARD OF PORTION OF DAMAGES.—

(1) IN GENERAL.—If any penalty is assessed, or non-economic or punitive damages are awarded with respect to a cause of action under section 502(n) or 514(d) of the Employee Retirement Income Security Act of 1974 (as added by section 302), the court shall award the amount described in paragraph (2) to the State health insurance trust fund established under subsection (b) for the State in which the claim was filed to enable the State to provide refundable tax credits to enable individuals in the State to purchase health insurance coverage.

(2) AMOUNT.—The amount awarded to a State under paragraph (1) shall consist of—

(A) any penalty assessed that is not awarded to the aggrieved participant or beneficiary; and

(B) any non-economic or punitive damages awarded in excess of $2,000,000.

(b) STATE REQUIREMENTS.—

(1) STATE HEALTH INSURANCE TRUST FUND.—A State that desires to receive payments under subsection (a) shall establish a State health insurance trust fund.

(2) REFUNDABLE TAX CREDIT.—

(A) IN GENERAL.—The refundable tax credit described in subsection (a)(1) shall—

(i) be available to any resident of a State who—

(I) is without access to adequate health insurance through the resident's employer; or

(II) is from a family with an income that is less that 220 percent of the poverty line, is not eligible for benefits under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), is not eligible for veteran's health benefits, and is younger than 65 years of age; and

(ii) be used to provide a benefit for private insurance that includes, at a minimum, catastrophic coverage.

(B) TIME PERIOD.—

(i) IN GENERAL.—A State shall have in place a refundable tax credit, as described in subsection (a)(1), not later than 2 years after the date of enactment of the Bipartisan Patient Protection Act.

(ii) TRANSFER OF FUNDS.—A State that fails to have a refundable tax credit in place as required by clause (i) shall transfer any funds described in subsection (a)(2) to the National Institutes of Health.

SA 837. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. ____. IMPROVED FLEXIBILITY FOR EMPLOYERS IN OBTAINING HEALTH INSURANCE COVERAGE FOR EMPLOYEES.

(a) FREEDOM FROM EMPLOYER LIABILITY.—In the case of a group health plan, or health insurance coverage provided by a health insurance issuer, that meets the requirements of subsection (b)—

(1) an employer maintaining the plan or entering into an arrangement for the coverage provided by the issuer shall not be liable pursuant to any cause of action relating to the provision of (or failure to provide, or manner of provision of) benefits under any health insurance coverage that may be secured by participants, beneficiaries, or enrollees in connection with the plan, or under the coverage provided by the issuer for participants, beneficiaries, or enrollees; and

(2) there shall be no right of recovery, indemnity, or contribution by a person against such an employer (or an employee of such an employer acting within the scope of employment) for damages assessed against the person pursuant to any such cause of action.

(b) REQUIREMENTS.—A group health plan or health insurance coverage provided by a health insurance issuer meets the requirements of this subsection if—

(1) such plan or coverage provides compensation to employees for personal injuries or sickness, within the meaning of section 106(a) of the Internal Revenue Code of 1986;

(2) under such plan or the arrangement for such coverage, all employer contributions are in the form of payments on behalf of participants, beneficiaries, or enrollees and are placed into a separate trust that forms a part of such plan or the arrangement for such coverage and that meets the additional requirements of subsection (d);

(3) the assets of such trust consist solely of such employer contributions and any income earned from investment of the contributions;

(4) the assets of such trust (other than assets used for payment of necessary and reasonable administrative expenses of the trust) are held in such trust for the sole purpose of, and are available for, payment by participants, beneficiaries, or enrollees of premiums for, or otherwise providing for the cost to participants, beneficiaries, or enrollees of—

(A) health insurance coverage for the participants, beneficiaries, or enrollees that is made available under the plan for acquisition by the participants, beneficiaries, or enrollees and that meets the applicable requirements of law; or

(B) coverage provided by the issuer for participants, beneficiaries, or enrollees that meets the applicable requirements of law;

(5) under such plan or arrangement for such coverage, at least 2 alternative and substantially different forms of health insurance coverage are available for acquisition by each participant, beneficiary, or enrollee with assets of the trust attributable to contributions to the trust on behalf of such participant, beneficiary, or enrollee; and

(6) the participant, beneficiary, or enrollee (and not the employer, plan, or issuer) has a right to the health insurance coverage provided to the participant, beneficiary, or enrollee under the plan or the coverage provided by the issuer.

(c) FIDUCIARY LIABILITY.—In the case of any group health plan or health insurance coverage provided by a health insurance issuer that meets the requirements of subsection (b)—

(1) the trustee of the separate trust referred to in subsection (b)(2) shall be the named fiduciary of the plan or the issuer, with respect to such coverage; and

(2) such trustee shall be treated, for purposes of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) and any other applicable provision of law, as the sole and exclusive fiduciary of the plan or the issuer with respect to assets held in such trust.

(d) SEPARATE TRUST REQUIREMENTS.—

(1) IN GENERAL.—A separate trust referred to in subsection (b)(2) meets the requirements of this subsection if each trustee of the trust—

(A) is not a related party;

(B) does not have a material familial, financial, or professional relationship with such a party; and

(C) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(2) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in paragraph (1) shall be construed to prohibit receipt by a trustee of the separate trust of compensation from the plan or issuer for the conduct of the trustee's duties as trustee, except that any such compensation—

(A) may not exceed a reasonable level; and

(B) may not be contingent on any decision rendered by the trustee in the exercise of the trustee's duties.

(3) RELATED PARTY.—For purposes of this subsection, the term ''related party'' means, in connection with a separate trust forming a part of the plan or the arrangement for such coverage, the plan, the plan sponsor, any health insurance issuer offering the coverage involved, or any fiduciary (except as provided in subsection (c)(2)), officer, director, or employee of such plan, plan sponsor, or issuer.

(e) RULES OF CONSTRUCTION.—

(1) ADDITIONAL EMPLOYEE CONTRIBUTIONS PERMITTED.—The requirements of this section shall not be treated as not met solely because a participant, beneficiary, or enrollee may need to supplement employer contributions provided under the plan or arrangement for coverage for purposes of acquiring health insurance coverage, in order to acquire such coverage.

(2) LIABILITY OF OTHER PARTIES UNAFFECTED.—Nothing in this section shall be construed to affect any cause of action in connection with the health insurance coverage referred to in subsection (a)(1) against the plan sponsor or health insurance issuer providing such coverage or any other party (other than the employer).

(f) DEFINITIONS.—The definitions contained in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91) shall apply for purposes of this section.

(g) REGULATIONS.—The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury may issue such regulations as are necessary to carry out the provisions of this section. Such regulations shall be issued consistent with section 104 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg–92 note).

SA 838. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

Beginning on page 98, strike line 2 and all that follows through line 21 on page 109, and insert the following:

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year;

(iii) of information relating to any material reduction to the benefits or information described in paragraph (1), (2), or (3) of subsection (b), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect; and

(iv) of the additional information described in subsection (c).

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(2) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(b)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(3) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(4) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee, as provided for under subsection (d), and through other, easily accessible means, including electronically via the Internet, shall include for each option available under a group health plan or health insurance coverage the following:

(1) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(2) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients, and the State licensure status of the providers and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(3) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(4) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(5) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(6) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(7) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(8) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(9) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(10) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(11) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(12) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(13) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(14) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(15) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Bipartisan Patient Protection Act (excluding those described in paragraphs (1) through (14)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(16) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 101 and 102, including any drug formulary program under section 118.

(17) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

SA 839. Mrs. HUTCHISON (for herself and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 101, between lines 14 and 15, insert the following:

(3) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

SA 840. Mr. ENZI proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 172, between lines 15 and 16, insert the following:

SEC. 304. IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

''(p) IMMUNITY FROM LIABILITY FOR PROVISION OF INSURANCE OPTIONS.—

''(1) IN GENERAL.—No liability shall arise under subsection (n) with respect to a participant or beneficiary against a group health plan described in paragraph (4) if such plan offers the participant or beneficiary the coverage option described in paragraph (2).

''(2) COVERAGE OPTION.—The coverage option described in this paragraph is one under which the group health plan, at the time of enrollment or as provided for in paragraph (3), provides the participant or beneficiary with the option to—

''(A) enroll for coverage under a fully insured health plan; or

''(B) receive an individual benefit payment, in an amount equal to the amount that would be contributed on behalf of the participant or beneficiary by the plan sponsor for enrollment in the group health plan (as determined by the plan actuary, including factors relating to participant or beneficiary's age and health status), for use by the participant or beneficiary in obtaining health insurance coverage in the individual market.

''(3) TIME OF OFFERING OF OPTION.—The coverage option described in paragraph (2) shall be offered to a participant or beneficiary—

''(A) during the first period in which the individual is eligible to enroll under the group health plan; or

''(B) during any special enrollment period provided by the group health plan after the date of enactment of the Patients' Bill of Rights Plus Act for purposes of offering such coverage option.

''(4) GROUP HEALTH PLAN DESCRIBED.—A group health plan described in this paragraph is a group health plan that is self-insured and self-administered prior to the general effective date described in section 401(a)(1) of the Bipartisan Patient Protection Act.''.

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) EXCLUSION FROM INCOME.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following:

''(d) TREATMENT OF CERTAIN COVERAGE OPTION UNDER SELF-INSURED PLANS.—No amount shall be included in the gross income of an individual by reason of—

''(1) the individual's right to elect a coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, or

''(2) the receipt by the individual of an individual benefit payment described in section 502(o)(2)(A) of such Act.''

(2) NONDISCRIMINATION RULES.—Section 105(h) of such Code (relating to self-insured medical expense reimbursement plans) is amended by adding at the end the following:

''(11) TREATMENT OF CERTAIN COVERAGE OPTIONS.—If a self-insured medical reimbursement plan offers the coverage option described in section 502(o)(2) of the Employee Retirement Income Security Act of 1974, employees who elect such option shall be treated as eligible to benefit under the plan and the plan shall be treated as benefiting such employees.''

SA 841. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. REFUNDABLE TAX CREDITS FOR THE UNINSURED FINANCED WITH CERTAIN CIVIL MONETARY PENALTIES.

(a) PAYMENT OF CERTAIN PENALTIES TO SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, 75 percent of any civil monetary penalty in any proceeding allowed under any provision of, or amendment made by, this Act may only be awarded to the Secretary of the Treasury.

(2) CIVIL MONETARY PENALTY.—For purposes of this section, the term ''civil monetary penalty'' means damages awarded for the purpose of punishment or deterrence, and not solely for compensatory purposes. Such term includes exemplary and punitive damages or any similar damages which function as civil monetary penalties. Such term does not include either economic or non-economic losses. Such term does not include the portion of any award of damages that is not payable to a party or the attorney for a party pursuant to applicable State law.

(b) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

''SEC. 9511. HEALTH INSURANCE REFUNDABLE CREDITS TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Health Insurance Refundable Credits Trust Fund', consisting of such amounts as may be—

''(1) appropriated to such Trust Fund as provided in this section, or

''(2) credited to such Trust Fund as provided in section 9602(b).

''(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN AWARDS.—There are hereby appropriated to the Health Insurance Refundable Credits Trust Fund amounts equivalent to the awards received by the Secretary of the Treasury under section ___(a) of the Bipartisan Patient Protection Act.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Health Insurance Refundable Credits Trust Fund shall be available to fund the appropriations under paragraph (2) of section 1324(b) of title 31, United States Code, with respect to any refundable tax credit to assist uninsured individuals and families with the purchase of health insurance under this title.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''9511. Health Insurance Refundable Credits Trust Fund.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SA 842. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 171, between lines 14 and 15, insert the following:

SEC. 303. LIMITATION ON CERTAIN CLASS ACTION LITIGATION.

(a) ERISA.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132), as amended by section 302, is further amended by adding at the end the following:

''(o) LIMITATION ON CLASS ACTION LITIGATION.—

''(1) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative claimant, or the group of claimants is limited to the participants or beneficiaries of a group health plan established by only 1 plan sponsor. No action maintained by such class, such derivative claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative claimant, or group of claimants or consolidated for any purpose with any other proceeding. In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.''.

''(2) EFFECTIVE DATE.—This subsection shall apply to all civil actions that are filed on or after January 1, 2002.''.

(b) RICO.—Section 1964(c) of title 18, United States Code, is amended—

(1) by inserting ''(1)'' after the subsection designation; and

(2) by adding at the end the following:

''(2)(A) No private action may be brought under this subsection, or alleging any violation of section 1962, where the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated a group health plan, or health insurance coverage in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974. In this paragraph, the terms 'group health plan' and 'health insurance issuer' shall have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

''(B) Subparagraph (A) shall apply to private civil actions that are filed on or after January 1, 2002.''.

SA 843. Mr. GRAMM (for himself and Mr. McCAIN) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Insert at the appropriate place:

Notwithstanding any other provision of this act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined in the plain language of the plan or coverage documents under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required, provided that the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

SA 844. Mr. SPECTER proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 153, strike line 9 and all that follows through page 154, line 2, and insert the following:

''(10) STATUTORY DAMAGES.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection. In such actions, the court shall apply the tort laws of the State in determining damages. If such damages are not limited under State law in actions brought under this subsection against a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan), then State law limiting such damages in actions brought against health care entities shall apply until such State enacts legislation imposing such limits against group health plans (and issuers). Nothing in this section shall be construed to require a State to enact legislation imposing limits on damages in actions against group health plans and issuers.

On page 160, between lines 2 and 3, insert the following:

''(D) ACTIONS IN FEDERAL COURT.—A cause of action described in subparagraph (A) shall be brought and maintained only in the Federal district court for the district in the State in which the alleged injury or death that is the subject of such action occurred. In any such action, the court shall apply the laws of such State in determining liability and damages. If such State limits the amount of damages that a plaintiff may receive, such limits shall apply in such actions.

On page 156, strike lines 15 and 16 and insert the following:

subsection.

''(o) LIMITATION ON CLASS ACTION LITIGATION.—

''(1) LIMITATION.—

''(A) IN GENERAL.—Any claim or cause of action that is maintained under this section in connection with a group health plan, or health insurance coverage issued in connection with a group health plan, as a class action, derivative action, or as an action on behalf of any group of 2 or more claimants, may be maintained only if the class, the derivative action claimant, or the group of claimants is limited to the participants, beneficiaries, or enrollees with respect to a group health plan established by only 1 plan sponsor or with respect to coverage provided by only 1 issuer. No action maintained by such class, such derivative action claimant, or such group of claimants may be joined in the same proceeding with any action maintained by another class, derivative action claimant, or group of claimants or consolidated for any purpose with any other proceeding.

''(B) DEFINITIONS.—In this paragraph, the terms 'group health plan' and 'health insurance coverage' have the meanings given such terms in section 733.

''(2) EFFECTIVE DATE.—Paragraph (1) shall apply to all actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act, and all actions that are filed not earlier than that date.''.

(2) RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.—Section 1964(c) of title 18, United States Code, is amended—

(A) by inserting ''(1)'' after the subsection designation; and

(B) by adding at the end the following:

''(2)(A)(i) No action may be brought under this subsection, or alleging any violation of section 1962, if the action seeks relief concerning the manner in which any person has marketed, provided information concerning, established, administered, or otherwise operated or provided a group health plan, or health insurance coverage issued in connection with a group health plan. Any such action shall only be brought under the Employee Retirement Income Security Act of 1974.

''(ii) In this subparagraph, the terms 'group health plan' and 'health insurance issuer' have the meanings given such terms in section 733 of the Employee Retirement Income Security Act of 1974.

''(B) Subparagraph (A) shall apply to actions that are pending and have not been finally determined by judgment or settlement prior to the date of enactment of the Bipartisan Patient Protection Act, and all actions that are filed not earlier than that date.''.

(3) CONFORMING AMENDMENT.—Section

SA 845. Mr. GRASSLEY proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 179, strike lines 1 through 14.

SA 846. Mr. NICKLES (for himself and Mr. ENSIGN) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Beginning on page 173, strike line 19 and all that follows through line 14 on page 174, and insert the following:

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—The amendments made by sections 201(a), 301, 302, and 303 (and title I insofar as it relates to such sections) shall apply to group health plans maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers beginning on the general effective date.

SA 847. Mr. BROWNBACK proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

At the end of the bill, add the following:

TITLE —HUMAN—GERMLINE GENE MODIFICATION

SEC. 01. SHORT TITLE.

This title may be cited as the ''Human Germline Gene Modification Prohibition Act of 2001''.

SEC. 02. FINDINGS.

Congress makes the following findings:

(1) Human Germline gene modification is not needed to save lives, or alleviate suffering, of existing people. Its target population is ''prospective people'' who have not been conceived.

(2) The cultural impact of treating humans as biologically perfectible artifacts would be entirely negative. People who fall short of some technically achievable ideal would be seen as ''damaged goods'', while the standards for what is genetically desirable will be those of the society's economically and politically dominant groups. This will only increase prejudices and discrimination in a society where too many such prejudices already exist.

(3) There is no way to be accountable to those in future generations who are harmed or stigmatized by wrongful or unsuccessful human germline modifications of themselves or their ancestors.

(4) The negative effects of human germline manipulation would not be fully known for generations, if ever, meaning that countless people will have been exposed to harm probably often fatal as the result of only a few instances of germline manipulations.

(5) All people have the right to have been conceived, gestated, and born without genetic manipulation.

SEC. 03. PROHIBITION ON HUMAN GERMLINE GENE MODIFICATION

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

''Chapter 16—Germline Gene Modification

''Sec.

''301. Definitions

''302. Prohibition on germline gene modification.

''§ 301. Definitions

''In this chapter:

(1) HUMAN GERMLINE GENE MODIFICATION.—The term 'human germline modification' means the intentional modification of DNA in any human cell (including human eggs, sperm, fertilized eggs, zygotes, blastocysts, embryos, or any precursor cells that will differentiate into gametes or can be manipulated to do so) for the purpose of producing a genetic change which can be passed on to future individuals, including inserting, deleting or altering DNA from any source, and in any form, such as nuclei, chromosomes, nuclear, mitochondrial, and synthetic DNA. The term does not include any modification of cells that are not a part of and will not be used to create human embryos. Nor does it include the change of DNA involved in the normal process of sexual reproduction.

''(2) HUMAN HAPLOID CELL.—The term 'haploid cell' means a cell that contains only a single copy of each of the human chromosomes, such as eggs, sperm, and their precursors.

''(3) SOMATIC CELL.—The term 'somatic cell' means a diploid cell (having two sets of the chromosomes of almost all body cells) obtained or derived from a living or deceased human body at any stage of development. Somatic cells are diploid cells that are not precursors of either eggs or sperm. A genetic modification of somatic cells is therefore not germline genetic modification.

Rule of construction: Nothing in this Act is intended to limit somatic cell gene therapy, or to effect research involving human pluripotent stem cells.

''§ 302. Prohibition on germline gene modification

''(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce—

''(1) to perform or attempt to perform human germline gene modification;

''(2) to intentionally participate in an attempt to perform human germline gene modification; or

''(3) to ship or receive the product of human germline gene modification for any purpose.

''(b) IMPORTATION.—It shall be unlawful for any person or entity, public or private, to import the product of human germline gene modification for any purpose.

''(c) PENALTIES.—

''(1) In general.—Any person or entity that is convicted of violating any provision of this section shall be fined under this section or imprisoned not more than 10 years, or both.

''(2) CIVIL PENALTY.—Any person or entity that is convicted of violating any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

''(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

''16. Germline Gene Modification ..... 301''.

SA 848. Mr. ENSIGN proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

At the end, add the following:

SEC. ____. IMMUNITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, no health care professional shall be liable for the performance of, or the failure to perform, any duty in providing pro bono medical services to a medically underserved or indigent individual.

(b) DEFINITIONS.—In this section:

(1) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' has the meaning given the term in section 151.

(2) MEDICALLY UNDERSERVED OR INDIGENT INDIVIDUAL.—The term ''medically underserved or indigent individual'' means an individual that does not have health care coverage under a group health plan, health insurance coverage, or any other health care coverage program, or who is unable to pay for the health care services that are provided to the individual.

SA 849. Mr. ENSIGN proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

Subtitle C of title I is amended by adding at the end the following:

SEC. 122. GENETIC INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CONTROLLED GROUP.—The term ''controlled group'' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

(2) FAMILY MEMBER.—The term ''family member'' means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

(3) GENETIC INFORMATION.—The term ''genetic information'' means information about

genes, gene products, or inherited characteristics that may derive from an individual or a family member of such individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(4) GENETIC SERVICES.—The term ''genetic services'' means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic and therapeutic purposes, and for genetic education and counseling.

(5) GENETIC TEST.—The term ''genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, and certain metabolites in order to detect genotypes, mutations, or chromosomal changes.

(6) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms ''group health plan'' and ''health insurance issuer'' include a third party administrator or other person acting for or on behalf of such plan or issuer.

(7) PREDICTIVE GENETIC INFORMATION.—

(A) IN GENERAL.—The term ''predictive genetic information'' means—

(i) information about an individual's genetic tests;

(ii) information about genetic tests of family members of the individual; or

(iii) information about the occurrence of a disease or disorder in family members.

(B) LIMITATIONS.—The term ''predictive genetic information'' shall not include—

(i) information about the sex or age of the individual;

(ii) information about chemical, blood, or urine analyses of the individual, unless these analyses are genetic tests; or

(iii) information about physical exams of the individual, and other information relevant to determining the current health status of the individual.

(b) NONDISCRIMINATION.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—A group health plan, and a health insurance issuer offering health insurance coverage, shall not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on genetic information (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in relation to the individual or a dependent of the individual.

(2) NO DISCRIMINATION IN GROUP RATE BASED ON PREDICTIVE GENETIC INFORMATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall not deny eligibility to a group or adjust premium or contribution rates for a group on the basis of predictive genetic information concerning an individual in the group (or information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(3) LIMITATION ON GENETIC TESTING.—

(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage, shall not request or require an individual or a family member of such individual to undergo a genetic test.

(B) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of a health care professional, who is providing treatment with respect to an individual and who is employed by a group health plan or a health insurance issuer, to request that such individual or family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

(4) COLLECTION OF PREDICTIVE GENETIC INFORMATION.—Except as provided in subsections (c) and (d), a group health plan, or a health insurance issuer offering health insurance coverage, shall not request, require, collect, or purchase predictive genetic information concerning an individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(5) DISCLOSURE OF PREDICTIVE GENETIC INFORMATION.—A group health plan, or a health insurance issuer offering health insurance coverage, shall not disclose predictive genetic information about an individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) to—

(A) any entity that is a member of the same controlled group as such issuer or plan sponsor of such group health plan;

(B) any other group health plan or health insurance issuer or any insurance agent, third party administrator, or other person subject to regulation under State insurance laws;

(C) the Medical Information Bureau or any other person that collects, compiles, publishes, or otherwise disseminates insurance information;

(D) the individual's employer or any plan sponsor; or

(E) any other person the Secretary may specify in regulations.

(c) INFORMATION FOR PAYMENT FOR GENETIC SERVICES.—

(1) IN GENERAL.—With respect to payment for genetic services conducted concerning an individual or the coordination of benefits, a group health plan, or a health insurance issuer offering health insurance coverage, may request that the individual provide the plan or issuer with evidence that such services were performed.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to—

(A) permit a group health plan or health insurance issuer to request (or require) the results of the services referred to in such paragraph; or

(B) require that a group health plan or health insurance issuer make payment for services described in such paragraph where the individual involved has refused to provide evidence of the performance of such services pursuant to a request by the plan or issuer in accordance with such paragraph.

(d) INFORMATION FOR PAYMENT OF OTHER CLAIMS.—With respect to the payment of claims for benefits other than genetic services, a group health plan, or a health insurance issuer offering health insurance coverage, may request that an individual provide predictive genetic information so long as such information—

(1) is used solely for the payment of a claim;

(2) is limited to information that is directly related to and necessary for the payment of such claim and the claim would otherwise be denied but for the predictive genetic information; and

(3) is used only by an individual (or individuals) within such plan or issuer who needs access to such information for purposes of payment of a claim.

(e) RULES OF CONSTRUCTION.—

(1) COLLECTION OR DISCLOSURE AUTHORIZED BY INDIVIDUAL.—The provisions of paragraphs (4) (regarding collection) and (5) of subsection (b) shall not apply to an individual if the individual (or legal representative of the individual) provides prior, knowing, voluntary, and written authorization for the collection or disclosure of predictive genetic information.

(2) DISCLOSURE FOR HEALTH CARE TREATMENT.—Nothing in this section shall be construed to limit or restrict the disclosure of predictive genetic information from a health care provider to another health care provider for the purpose of providing health care treatment to the individual involved.

(f) VIOLATION OF GENETIC DISCRIMINATION OR GENETIC DISCLOSURE PROVISIONS.—

(1) IN GENERAL.—In any action under a covered provision against any administrator of a group health plan, or health insurance issuer offering health insurance coverage (including any third party administrator or other person acting for or on behalf of such plan or issuer) alleging a violation of subsection (b), (c), or (d), the court may award any appropriate legal or equitable relief. Such relief may include a requirement for the payment of attorney's fees and costs, including the costs of expert witnesses.

(2) DEFINITION.—In this subsection, the term ''covered provision'' means section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) or section 2722 or 2761 of the Public Health Service Act (42 U.S.C. 300gg–2, 300gg–61).

(g) CIVIL PENALTY.—The monetary provisions of section 308(b)(2)(C) of Public Law 101–336 (42 U.S.C. 12188(b)(2)(C)) shall apply for purposes of the Secretary enforcing the provisions referred to in subsection (f), except that any such relief awarded shall be paid only into the general fund of the Treasury.

(h) SPECIAL RULE IN CASE OF GENETIC INFORMATION.—With respect to health insurance coverage offered by a health insurance issuer, the provisions of this section relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law that establishes, implements, or continues in effect a standard, requirement, or remedy that more completely—

(1) protects the confidentiality of genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member of the individual with respect to genetic information (including information about a request for or the receipt of genetic services by the individual or a family member of such individual); or

(2) prohibits discrimination on the basis of genetic information than does this section.

At the end of title II, insert the following:

SEC. 203. ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.

Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking ''If the plan sponsor'' and inserting ''Except as provided in subparagraph (D), if the plan sponsor''; and

(2) by adding at the end the following:

''(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (b), (c), and (d) of section 122 of the Bipartisan Patient Protection Act and the provisions of section 2702(b) to the extent that the subsections and section apply to genetic information (or information about a request for or the receipt of

genetic services by an individual or a family member of such individual).''.

SEC. 204. APPLICATION OF GENETIC NONDISCRIMINATION REQUIREMENTS TO MEDIGAP PLANS.

(a) NONDISCRIMINATION.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

''(E) Each issuer of a medicare supplemental policy, and each such policy offered by such an issuer, shall comply with the requirements under section 122 of the Bipartisan Patient Protection Act.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to each issuer of a medicare supplemental policy and each such policy for policy years beginning after October 1, 2002.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the amendment made by subsection (a), the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act (42 U.S.C. 1395ss) due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than June 30, 2002, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendment made by subsection (a), such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2002, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section; or

(ii) October 1, 2002.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the amendment made by subsection (a); but

(ii) having a legislature which is not scheduled to meet in 2002 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2002. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 205. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subchapter C as subchapter D; and

(2) by inserting after subchapter B the following:

''SUBCHAPTER C—PATIENT PROTECTION STANDARDS

''SEC. 9821. PATIENT PROTECTION STANDARDS.

''Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this section.''.

(b) APPLICATION TO EMPLOYERS WITH FEWER THAN 2 EMPLOYEES.—Section 9831(a) of the Internal Revenue Code of 1986 is amended by striking ''this chapter'' and inserting ''this chapter (other than section 9821, with respect to the application of section 122 of the Bipartisan Patient Protection Act)''.

After section 301, insert the following:

SEC. 301A. APPLICATION TO EMPLOYERS WITH FEWER THAN 2 EMPLOYEES.

Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714(a) (with respect to the application of section 122 of the Bipartisan Patient Protection Act)''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURAL, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, June 28, 2001. The purpose of this hearing will be to discuss the next Federal farm bill.

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

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 2:30 p.m., in open session to receive testimony on the fiscal year 2002 budget amendment, in review of the Defense authorization request for fiscal year 2002 and the Future Years Defense Program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during these session of the Senate on June 28, 2001, to conduct a hearing on ''The Reauthorization of the Iran and Libya Sanctions Act.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, June 28 at 9:30 a.m. to conduct an oversight hearing. The committee will receive testimony on science and technology studies on climate change.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 2 p.m. to hold a hearing titled, ''Zimbabwe's Political and Economic Crisis'' as follows:

WITNESSES

Panel 1: Walter H. Kansteiner, Assistant Secretary of State for African Affairs, Department of State, Washington, DC.

Panel 2: Professor Robert Rotberg, President, World Peace Foundation, Cambridge, MA.

Yves Sorokobi, Africa Director, Committee to Protect Journalists, New York, NY.

Mr. John Prendergast, International Crisis Group, Washington, DC.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet Thursday, June 28, 2001, at 9:30 am for a hearing regarding ''The Impact of Electric Industry Restructuring on System Reliability.''

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 10 a.m., to receive testimony from Members of the House of Representatives on election reform.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, June 28, 2001, at 10 a.m., in room 418 of the Russell Senate Office Building, for a hearing on pending veterans' benefits legislation as follows:

S. 1090: Cost-of-living adjustment for veterans' benefits. Sponsor: Senator ROCKEFELLER.

S. 1089: U.S. Court of Appeals for Veterans Claims (CAVC) succession plan to address judges retiring in 2004/2005. Repeals the NOD as a jurisdictional threshold for appearing before the CAVC. Sponsor: Senator ROCKEFELLER.

S. 1091: (1) Eliminates the 30-year limit on manifestation from time of exposure for the presumption of service connection for Agent Orange-related respiratory cancer; (2) Restores a VA presumption, eliminated by a Court decision, that in-country Vietnam veterans were exposed to Agent Orange; (3) tasks the National Academy of Sciences to continue reporting on Agent Orange and its association with

disease for 10 more years (5 reports). Sponsor: Senator ROCKEFELLER.

S. 1063: CAVC-requested bill pertaining to administrative matters. Sponsor: Senator ROCKEFELLER.

S. 1088. Creates flexibility for MGIB to pay for high tech/short-term courses. Sponsor: Senator ROCKEFELLER.

S. 1093: Miscellaneous veterans' benefits provisions (based on informal input from VA):

COMPENSATION

a. Eliminate compensation for incarcerated persons—We previously enacted legislation to reduce compensation to incarcerated veterans to the equivalent of 10 percent, disability compensation (or, if they only received 10 percent, to the equivalent of 5 percent). Veterans that were already incarcerated were grandfathered out of the reduction. This change would stop only future payments to these veterans.

b. Reduce benefits for fugitive felons—Currently, veterans who are fugitive from justice are eligible to receive VA benefits. This would bar them from receiving benefits while a fugitive (fleeing prosecution, confinement for a felony, or in violation of a condition of probation or parole).

c. Duty to assist (technical corrections).

VOCATIONAL REHABILITATION

Eliminate the cap of 500 veteran participants in Voc Rehab's ''Independent Living'' program. The cap was set when the program was initially piloted. While the time limit on the program was repealed, the cap on participants was not. VA has not turned any one away from the program, but has been exceeding 500 veterans in the last couple of years. The goal of the program is to assist a veteran who is too disabled to retrain for employment to achieve and maintain a stated independent living outcome.

LOAN GUARANTY

Increase the home loan guaranty amount to $63,175 from the current $50,750, to keep pace with FHA (and the even higher Fannie Mae or Freddie Mac). The VA amount has not been increased since 1994.

EDUCATION

Overturn court decision eliminating the delimiting date for use of chapter 35 educational benefits by surviving spouses. The spouse would be allowed to choose the beginning date of the eligibility period. It could be any date between the effective date of the rating of the veteran's service-connected disability as permanently and totally disabling, and the date VA notified the veteran of this fact. A 10-year period would run from the date the spouse chose.

PENSION

a. Excludes life insurance proceeds from countable income for determination of nonservice-connected death pension eligibility for poor surviving spouses of wartime veterans. Currently, counting life insurance could make the spouse ineligible for a year. Modifies effective date of beginning benefits.

b. Modifies the requirement for pensioners to report changes in income at the end of the month, to the end of the year.

S. 131: To increase the rate of the basic benefit of MGIB to the average cost of tuition next fiscal year, and then modify the annual COLA to be pegged to educational inflation. Sponsor: Senator JOHNSON.

S. 228: To make permanent the Native American veterans housing loan program. The program is set to expire in 2002. Sponsor: Senator AKAKA.

S. 409: To clarify the standards for compensation for Persian Gulf veterans suffering from certain undiagnosed illnesses and to extend Persian Gulf compensation presumption. Sponsor: Senator HUTCHISON.

S. 457: To establish a presumption of service connection for certain veterans with hepatitis C. Sponsor: Senator SNOWE.

S. 662: To authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graces of, or to otherwise commemorate, certain individuals if buried after November 1, 1990. Sponsor: Senator DODD.

S. 781: To extend the authority for housing loan guaranties for members of the Selected Reserve now set to expire in 2007. Sponsor: Senator AKAKA.

S. 912: To increase burial benefits for veterans from $300 to $1,135 and from $1,500 to $3,713, and plot allowances from $150 to $670. Also, to index future increases to the CPI. Sponsor: Senator MIKULSKI.

S. 937: To permit the relevant Secretary to transfer entitlement to MGIB educational assistance from members of the Armed Forces to their dependents for up to 18 months of benefits, and allow them to receive the payment as an accelerated payment for a term/semester (solely upon the discretion of the Secretary). Sponsor: Senator CLELAND.

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

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Thursday, June 28, 2001, from 10 a.m.–12 p.m. in Dirksen 226 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine of the Committee on Commerce, Science, and Transportation be authorized to meet on June 28, 2001, at 2:30 p.m., on Surface Transportation Board Rail Merger Rules.

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

UNANIMOUS CONSENT AGREEMENT—S. 1077

Mr. REID. Mr. President, I ask unanimous consent that at 1 p.m., Monday, July 9, the Senate proceed to the consideration of Calendar No. 76, S. 1077, the supplemental appropriations bill; that the bill be considered under the following limitations: that the only first-degree amendments in order other than a managers' amendment be the following list which is at the desk; that all listed amendments must be offered by 6 p.m. Monday, July 9, with the exception of the managers' amendment; that the managers or designees be authorized to offer any listed first-degree amendment in order for that amendment to qualify under the deadline; that any listed first-degree amendment be subject to relevant second-degree amendments; that any time limitation for debate on a first-degree amendment specified in this agreement then a second-degree amendment to that amendment would be accorded the same time limit; further, that upon disposition of the above amendments, the bill be advanced to third reading and the Senate then proceed to the consideration of Calendar No. 77, H.R. 2216; that all after the enacting clause be stricken and the text of S. 1077, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and the Senate then vote on passage of the bill, with no intervening action or debate; finally, I ask unanimous consent that S. 1077 be returned to the calendar.

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

The list of amendments is as follows:

Biden amendment re: Relevant,
Bond amendment re: Department of Defense,
Bond amendment re: Corp of Engineers,
Boxer amendment re: Sudden Oak Death,
Boxer amendment re: Path 15,
Byrd amendment re: Relevant,
Byrd amendment re: Relevant to any on list,
Cleland amendment re: B–1 bomber transportation,
Conrad amendment re: Turtle Mountain Indian Reservation,
Conrad amendment re: Devil's Lake,
Conrad amendment re: Relevant,
Craig amendment re: Relevant,
Daschle amendment re: Relevant,
Daschle amendment re: Relevant to any on list,
Feingold amendment re: Relevant,
Feingold amendment re: Klamath Basin,
Feinstein amendment re: Klamath Basin,
Hutchinson (AR) amendment re: AR ice storms,
Inouye amendment re: Relevant,
Johnson amendment re: Relevant,
Lott amendment re: Relevant,
Lott amendment re: Relevant to any on list,
McCain amendment re: Defense,
McCain amendment re: Dept. of Defense with a time limit of 2 hours equally divided and controlled,
Nickles amendment re: Relevant,
Miller amendment re: B–1 bomber transportation,
Reid (NV) amendment re: Relevant,
Reid (NV) amendment re: Relevant to any on list,
Roberts amendment re: B–1 bombers,
Schumer amendment re: IRS,
Schumer amendment re: Relevant,
(4) Smith (OR) amendment re: Klamath Falls,
Stevens amendment re: Relevant,

Stevens amendment re: Relevant to any on list,

Voinovich amendment re: Social Security Lock Box,

Warner amendment re: Building naming,

Wellstone amendment re: LIHEAP.

ORDERS FOR FRIDAY, JUNE 29, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it adjourn until the hour of 9 a.m. tomorrow, Friday, June 29. I further ask consent that on Friday, 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 the Patients' Bill of Rights.

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

PROGRAM

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I announce that tomorrow we will convene at 9 a.m. and that shortly thereafter, as soon as the prayer and pledge are completed, we will resume consideration of the Patients' Bill of Rights, with the votes as outlined previously in the unanimous consent request.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:30 p.m., adjourned until Friday, June 29, 2001, at 9 a.m.

NOMINATIONS

EXECUTIVE NOMINATIONS RECEIVED BY THE SENATE JUNE 28, 2001:

DEPARTMENT OF COMMERCE

LINDA MYSLIWY CONLIN, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE MICHAEL J. COPPS, RESIGNED.

DEPARTMENT OF ENERGY

DAN R. BROUILLETTE, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS), VICE JOHN C. ANGELL, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

DONALD R. SCHREGARDUS, OF OHIO, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE STEVEN ALAN HERMAN, RESIGNED.

DEPARTMENT OF STATE

STUART A. BERNSTEIN, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

CHARLES A. HEIMBOLD, JR., OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWEDEN.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

CAROLE BROOKINS, OF INDIANA, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS, VICE JAN PIERCY, TERM EXPIRED.

DEPARTMENT OF DEFENSE

H. T. JOHNSON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE ROBERT B. PIRIE, JR., RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. PAUL V. HESTER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. LANCE L. SMITH, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. THOMAS C. WASKOW, 0000

EXTENSION OF REMARKS

SOPHIE HEIMBACH'S 100TH BIRTHDAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. GILMAN. Mr. Speaker, I rise today to honor a wonderful woman, Sophie Heimbach who will be 100 years old on August 10, 2001. As is the case with most Jews born in the early twentieth century, Sophie's life began very peacefully, and happily. She was born on August 10, 1901 in Ochtrup, Germany. In 1938, with the rising strength of the Nazi party, Sophie was forced to flee Germany. While at first she was able to make a new home in Belgium, the outbreak of World War Two forced her to flee again, this time for France, Spain, Portugal, and finally Casablanca. As if being uprooted from one's home and having a death marking on one's chest were not bad enough, Sophie was also separated from her family for a very painful period of time. We have all heard tales of the horrors for the Jews during World War Two, but this woman lived them, and she did it not knowing what would become of her family.

Sophie was reunited with her husband and family in Casablanca, and from that point slowly began to relearn the small joys in life, even amidst pain. Casablanca led Sophie and her family to Cuba, and then eventually to the United States in 1942. They moved to Goshen, New York where Sophie earned her U.S. citizenship in 1947. Sophie and her husband worked diligently and humbly in their first months in the United States. She worked as a housekeeper for a wealthy landowner, and her husband Arthur as a farm hand. After a mere nine months, Sophie and Arthur had the resources to fulfill their American dream enabling them to purchase the family farm in Wallkill, New York. The Heimbach family flourished during their time in Wallkill, and succeeded in developing their farm to over 400 acres.

Arthur is now deceased, but he and Sophie are followed by two children, Charlotte and Louis, five grandchildren, and six great grandchildren.

Sophie is a woman of great devotion and dedication to her temple, her home and her family. She has lived a full life with as much grief as joy, hardship as luck. I invite my colleagues to join me in honoring her on her millstone 100th birthday.

PROSPECTS FOR UNITED STATES-VENEZUELAN RELATIONS IN THE CHAVEZ ERA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. TOWNS. Mr. Speaker, United States-Venezuelan relations recently have become a matter of concern on the current administration's Latin American foreign policy agenda due to some provocative statements made by President Hugo Chavez. The United States imports 14 percent of its oil from Venezuela, and with President Chavez being driven by his concern over maximizing profits to help serve one of his own policy goals of creating a "Latin American Union," the United States has possible cause for worry that what may be good for Venezuela may not be good for American interests.

Chavez also has visited recently with Saddam Hussein and Fidel Castro, criticized Plan Colombia and denounced Washington's $1.3 billion funding of it, which has heightened Washington's edginess over the new status quo. But all of us must keep in mind that it is all but certain that the Venezuelan president's vision for a more unified Latin America will not disappear, and is shared by millions of other Latin Americans.

It is clear that patience is being called for as well as a sense of proportionality. After all, Chavez, at the present time, poses no danger to vital United States interests, and we risk destructive backlash from Latin America if the United States acts too harshly against the Venezuelan leader. Moreover, many of his condemnations of the development model are also being echoed by dissident IMF and World Bank officials.

The following research memorandum was authored by Pamela Spivack and Jill Freeman, Research Associates with the Washington-based Council of Hemispheric Affairs (COHA), an organization that has been long committed to addressing issues associated with democracy and human rights throughout the Hemisphere. COHA's researchers have often spoken out about controversial United States policies towards Latin American countries, and we have all benefited over the years from such insights. The attached article, which will appear in this organization's estimable biweekly publication, The Washington Report on the Hemisphere, addresses United States-Venezuelan relations and how Chavez's rhetoric has worried and concerned Washington. The article also points out that these alienating attitudes toward the United States as well as Venezuela's status as the world's third largest oil exporter are potential causes for the United States to reexamine its benign policies toward Caracas, emphasizing that caution and moderation are now required.

[From the Washington Report on the Hemisphere, June 25, 2001]

CAPITAL WATCH: PROSPECTS FOR U.S.-VENEZUELAN RELATIONS IN THE CHÁVEZ ERA

As concern grows in Washington over President Hugo Chávez's domestic and foreign policy moves, relations with Caracas could soon being to seriously erode. Chávez's leftist Bolívarian rhetoric, his opposition to U.S. antidrug initiatives in Colombia, his close friendship with Fidel Castro, as well as the country's status as a major supplier of petroleum to the U.S., may persuade the administration to reexamine its relatively docile policies towards Venezuela.

The hero of the country's poor, his constituency carried him to an overwhelming victory first in 1998, and then again in 2000. Chávez speaks about integrating the continent, including the military, which is of great importance for both the goals of justice and the ability to combat external imperialist measures. Meanwhile, the Bush administration's fears that the strong man will need to be cut down are growing. Although the State Department's Peter Romero blasted Chávez's support of Colombia's leftist guerrillas in front of a Miami-Cuban audience, Washington's fears had remained latent, far down on its hemispheric agenda. This benign stance was due to the Clinton administration's ''positive engagement'' policy, geared to facilitate equitable ties with the rest of the region. However, there is speculation that Bush may more intensely monitor Caracas' political and economic actions in an effort to block Chávez's ''Latin American Union'' from coming to fruition.

DISSEMINATION OF VENEZUELAN RHETORIC

To the consternation of Washington policymakers, specific events have highlighted Chávez's efforts to export his peaceful revolution to neighboring countries. He has roundly criticized Plan Colombia, a massive U.S. military-driven scenario aimed at interdicting and destroying the drug cartels. He recently denounced Washington's $1.3 billion funding of it as well as its components, such as intensified training of the military and Bogota's growing deployment of offensive helicopters, as a dangerous intervention that will not be successful. At a news conference at the U.N. Millennium Summit, September 2000, Chávez emphasized, ''The only solution for Colombia is peace. Sending helicopter gunships to

Colombia is not the only regional country of interest to the Venezuelan leader. According to El País of Spain, there is evidence that Caracas has supported radicalized indigenous movements in Bolivia to demonstrate the solidarity of like-minded movements. At the Ibero-American Summit in Panama, 2000, Bolivian president Hugo Bánzer exhibited some animosity towards Chávez for his alleged support of such movements. As has been noted in the Miami Herald, Chávez also has been accused of supplying equipment to the indigenous and military figures who later staged a coup in Ecuador. The paper implicated the Venezuelan leader in the delivery of over $500,000 to Colonel Lucio Gutiérrez, who overthrew the Ecuadorian government of Jamil Mahuad. In his failed

coup attempt in 1992, Gutiérrez adopted a populist slogan much like Chávez's own. The presence of such marrings on Chávez's hemisphere report card has been troubling to Washington.

THREATS TO U.S. INTERESTS

Chávez's recent association with such U.S. ''enemies'' as Saddam Hussein and Fidel Castro, has heightened the State Department's anxiety over his intentions. In particular, his evolving friendship with Castro puts the U.S. in a quandary, given that Venezuela is the third largest foreign supplier of crude oil to this country. Chávez flouted U.S. efforts to isolate Havana in devising a five-year deal with the Cuban leader to provide the island with oil to compensate for Cuba's lost Soviet aid. Venezuela will supply Cuba with 53,000 barrels of oil a day, at an annual market price of $3 billion. By granting cheap credits and a barter system, the cost to Cuba will be substantially less. Increased oil revenues from growing U.S. imports that fill Chávez's coffers ironically help to subsidize Cuba's own consumption. Before his visit to Cuba, Chávez suggested, ''We have no choice but to form an 'axis of power,'' challenging U.S.-hemispheric dominance. Chávez's declared objective is to generate good will for Venezuela throughout the region by offering similar preferential oil deals to many other Caribbean countries.

Despite climbing oil prices in the past two

Chávez also expanded his presidential powers to undermine the independent power of the judiciary, legislature, media and civic offices, all of which were known for their corruption under previous regimes. Up to this point, Washington has restrained itself, implicitly adjusting to Chávez's style of rule, a difficult position to maintain in light of the growing tempo of his socialist rhetoric and recent controversial policy proposals.

POTENTIAL U.S. ACTION

While the Clinton administration overlooked Chávez's political maneuvers in Latin America to maintain a semblance of amicable relations, some of his outcries evoked the wrath of Cuban-Americans wishing to punish him for pro-Castro activism. This is likely to build up the pressure on the Bush administration to ''get tough on Chávez.'' Observers in Caracas assert that he has never concealed his goal of a unified Latin America distanced from Washington. It is doubtful whether a tougher response form Washington would hinder Chávez's defense of such a union. Former State Department official, Bernard Aronson, is already claiming that any disruption of oil agreements with Venezuela could weaken the U.S. economy. Due to economic difficulties and heightened crime, Chávez's promises of jobs and increased security have had to be delayed. However, it is important to note that he has been in office a relatively short period, and appears to have factored in U.S. scorn while seeking his public sector reforms. Whether Washington can long maintain its positive engagement policy towards Chávez's actions remains to be seen, but it is a certainty that he will continue to champion his messianic vision for Venezuela and Latin America.

FEDERAL PHOTOVALTAIC UTILIZATION ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. OBERSTAR. Mr. Speaker, the recent increase in oil prices has focused national attention on the benefits we could achieve by reducing our dependence on fossil fuels by meeting more of our energy needs from renewable sources, such as solar, wind, biomass and geothermal energy. Today, I am introducing legislation to promote one of the most promising of these technologies, solar photovoltaics.

Quite simple, a photovoltaic, or PV, system converts light energy into electricity. The term "photo" is a stem word from the Greek "phos" which means light. "Volt" is named for Allesandro Volta, a pioneer in the study of electricity. Photovoltaic literally means "light electricity".

PV generated power offers distinct advantages over diesel generators, primary batteries, and in some instances, over conventional utility power lines. PV systems are highly reliable, and have no moving parts, so the need for maintenance is virtually non-existent. This is one of the main reasons they are used in satellites today, for which maintenance is both costly and time consuming. In addition, PV cells use sunlight to produce electricity—and sunlight is free!

The potential for photovoltaics is boundless. By way of illustration, solar panels in 1% of the Mojave Desert would provide enough energy to meet California's expected electric shortfall. The electricity needs of the entire United States could be met by panels in a 100 by 100 mile area in the South-Western United States.

PV cells are ideal for supplying power to remote communication stations, such as those in our National Park system, and on navigational buoys. Because they burn no fuel and have no moving parts, PV systems are clean and silent. Compared to the alternative of burning kerosene and diesel fuels that contribute to global warming, this quiet, clean source of power becomes even more attractive.

Another important feature of PV systems is their modularity—they can easily be adapted to any size, based on energy consumption. Homeowners can add modules as their needs expand, and ranchers, for example, can use mobile stations to produce electricity for pumps to water cattle as the animals are rotated to different grazing areas. After Hurricane Andrew in 1993 the Florida Solar Energy Center deployed several PV emergency systems right at the disaster locations where the energy was needed.

Because a PV system can be placed closer to the user, shorter power lines can be used if power were brought in from a grid. Shorter lines, lower construction costs, and reduced paper work make PV systems especially attractive. Transmission and distribution upgrades are kept to a minimum, which is especially important in urban areas. PV systems can be sized, sited, and installed faster than traditional energy systems.

I have had a longstanding interest in promoting the development of this technology. In June 1977 I introduced H.R. 7629, which established a program for the Federal government to encourage the development of PV technology by using it in federal facilities. At that time, photovoltaic technology was in its early developmental stage, and produced energy at a cost of more than $1.00 per kilowatt hour, compared to less than $.10 a hour for energy from fossil fuels. In these circumstances, there is a "chicken and egg" problem: because the technology is expensive, consumers will not purchase it, but, unless there are purchases, the produces will not be able to make the investments and engage in the large-scale production needed to being the cost down.

The Federal government, which purchases billions of dollars of energy each year, is in a unique position of facilitate a breakthrough for photovoltaics. Under my 1977 bill, the Federal government would have purchased substantial quantities of photovoltaic technology. These purchases would have given industry the resources and incentives to develop the technology and mass production efficiencies necessary to make photovoltaics competitive.

My 1977 bill became part of a larger bill to establish a comprehensive national energy policy, PL 95–619. Most unfortunately, the Reagan administration chose not to fund the bill, resulting in not only a lackluster renewable energy program but also a serious deterioration of national focus.

The collapse of the oil cartel and the return of low oil and gas prices in the early 1980's had a chilling effect on federal renewable energy programs. Despite Congress' consistent support for a broader, more aggressive renewable energy program than either the Reagan or George H.W. Bush administrations supported, federal spending fell steadily through 1990. Funding for renewable energy R&D grew from less than $1 million on the early 1970's to over $1.3 billion in FY 1997, but then nose-dived during the Reagan and Bush administrations. Funding steadily declined during the 1980's to $136 million in FY 1990.

The trend was reversed during the Clinton administration. In June 1997 President Clinton announced the Million Solar Roofs Initiative. The program called for the installation of one million solar energy systems on homes and other buildings by 2010. In October 1997, President Clinton committed to placing 20,000 solar energy systems on Federal Buildings. So far the results have been encouraging—over 2000 solar systems have been installed in federal facilities through the year 2000. For example, the U.S. Coast Guard Air Station in San Francisco developed a solar hot water heating project, which qualified as part of the Federal commitment. The project was completed easily and quickly, cost less than $10,000 and has energy savings of $1,100 per year, which means that has a 9-year payback period.

Just across the Anacostia River, here in the Nation's Capitol, at the Suitland Federal Center, the General Services Administration has installed a large PV system to supply electricity for the Federal center. From the Presidio in San Francisco to Fort Dix in New Jersey, the Federal government has installed numerous effective PV systems. Solar power is used

extensively for diverse purposes in our National Park and National Forests—supplying lighting to the Tonto National Forest in Arizona and drinking water to hikers in the Rocks National Park in Lakeshore Michigan. The isolated research facilities at Farallon National Wildlife Refuge, California are powered by PV systems.

During disaster relief activities solar power systems step in quickly to supply efficient, easy to install, mobile power sources. In addition to solar power in federal buildings, national parks, communications, and disaster relief activities, solar power is used extensively in transportation support—bus stop lighting, parking lot lights, railroad signal lights, traffic monitoring and control, Coast Guard lighthouses, beacons and buoys. Furthermore, the government is leading the way with innovative technologies for solar powered vehicles. The Department of Energy is the chief sponsor of the American Solar Challenge, which this year will see solar power cars race from Chicago to Southern California, over the Great Plains, the Rockies and the great American desert. Clearly, solar power offers something for everyone.

In October 2000, at the Utility Photovoltaic meeting in Baltimore, Department of Energy officials announced that more than 100,000 solar energy systems had been installed in the U.S. since the beginning of the solar roof initiative. Under the Clinton administration, the Department of Energy had organized 51 partnerships from coast to coast—dedicated to working on

Through the efforts of the solar industry, with the support of the federal government, solar technology has made substantial progress in recent years. The cost has been reduced to $.20 per kilowatt hour, and further reductions are expected. As a result, sales are increasing at a dramatic rate. Sales of photovoltaics within the United States has been growing at a rate of 25% a year. The United States photovoltaics industry is a strong exporter, with almost 70% of U.S. production going to export sales. There is room for growth in our exports. Currently, the U.S. has about 20% of the world market and Germany and Japan each has a larger market share than our country.

I believe that we need to continue the Federal government's role in promoting the development of this technology. The Federal government should continue to be a major customer, and help the technology reach its full potential. My bill will express Congressional support for the type of program established by the Clinton administration, and provide the necessary funding. My bill establishes a goal for the Federal government during the next five years to acquire photovoltaic systems for Federal buildings which will produce at least 150 megawatts of electricity. This will accomplish the goal of the 20,000 solar roof initiative. The bill authorizes appropriations of $210 million a year for the next five years, the level of funding needed to purchase approximately 18,000 photovoltaic systems. The bill also establishes a program for evaluation of the systems used in Federal facilities to ensure that the government is encouraging development of the most advanced technology.

Mr. Speaker, using Federal government procurements to "jump start" a technology is not without precedent. In fact, photovoltaic technology itself is a product of space technology, and was advanced by NASA in the Hubble space station program. As a result, photovoltaic systems power nearly every satellite today as they circle the earth. Similarly, in the early days of the computer era the cost of microchips was prohibitive. Large-scale purchases by the government (NASA and DOD) helped bring the costs down to commercially competitive levels. As another example, the General Services Administration, using its FTS 2000 telecommunications contact, was also successful in promoting advancements and enhancements in telecommunications.

Mr. Speaker, I believe that the program established by my bill can make a major contribution to energy efficiency, protection of the environment and reduced dependence on foreign energy. I will be working to incorporate this program in any energy legislation passed in this Congress.

AMERICA HAS EARNED OUR RESPECT AND ALLEGIANCE EVERY DAY

HON. ROSCOE G. BARTLETT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 2001

Mr. BARTLETT of Maryland. Mr. Speaker, on July 4, our nation will commemorate the 225th Anniversary of the signing of the Declaration of Independence—an astounding historic achievement for liberty and freedom. It's sad that in 2001, political correctness has replaced patriotism and respect for America's achievements with cynicism and even disrespect.

James Merna, Past Maryland Commandant of the Marine Corps League brought this example to my attention during his speech entitled, "Heroes and Role Models for Today and Tomorrow," at the Elks Club Flag Day Observance in Frederick, Maryland on June 10.

In May, Mr. Fran Parry, a track coach from Gaithersburg High School in Maryland was suspended for 12 days. Why? He confronted and reprimanded a student who was disrespectful during the Pledge of Allegiance. The student replied that he wasn't American and didn't have to be respectful during the Pledge.

It took support and pressure from other students, parents and the community after the incident became public before Coach Parry was reinstated.

America has earned our respect and allegiance every day.

I submit Mr. Merna's entire speech for the Record and I urge my colleagues and all Americans to read it.

REMARKS OF JAMES E. MERNA, PAST MARYLAND STATE COMMANDANT, MARINE CORPS LEAGUE, AT THE ELKS CLUB FLAG DAY OBSERVANCE, FREDERICK, MD, JUNE 10, 2001

"HEROES AND ROLE MODELS FOR TODAY AND TOMORROW"

Thank you for inviting me. I am honored to speak to the Elks, one of America's largest and most influential fraternal organizations.

At the outset, allow me to extend my congratulations to the Frederick Elks Lodge on the celebration of your 100th anniversary this year. This is an accomplishment of which you should be justifiably proud, for a century of service in brotherhood to each other, to your community, and to the nation. I wish you many more years of good fellowship and service.

I have a number of ties to the Frederick community, forged in years of friendship and admiration. Let me mention just three:

(1) The Shangri-La Detachment, Marine Corps League. This great organization was originally formed here in Frederick, I believe, in 1948. After many years of service, it became somewhat inactive. A few of us came here in 1968, helped reissue its charter and get it reinvigorated, and today it flourishes as one of the most active detachments in the entire League. I made many good friends here, among them, your own Tommy Grunwell, Ken Bartgis, and the late Charlie Horn.

(2) Ben Wright, your football coach here at Governor Thomas Johnson High School. Earlier in his career, before he coached your Patriots, he coached three of my four sons when he was the head football coach at Eleanor Roosevelt High School, in Greenbelt. He's a true winner in every respect, athletically and morally.

(3) My son John Merna, Major, U.S. Marine Corps. Two summers ago, John commanded a reinforced Marine rifle company (Echo 2–5) on a five month cruise in the South China Sea. The float was part of the Seventh Fleet whose purpose, besides being a good will mission for the U.S., was to conduct amphibious exercises and training with designated Asian forces.

Nonetheless, let me offer a few of my observations on the current fervor, or the lack thereof, for patriotism in America today, and what needs to be done, if anything, particularly with regard to our youth.

We can start by asking ourselves, who still observes Flag Day today? We may see a few houses in our neighborhoods who will fly their flags on their porches or in their front yards. But, increasingly, we no longer feel compelled to honor the flag. That kind of patriotic display is steadily be'regarded as old-fitshioned or tedious. Contrast today to a little more than 100 years ago when Flag Day in 1894 drew some 300,000 people to city parks in Chicago alone. Unfortunately, powerful forces in our society, popular culture, and political circles oftentimes emphasize our cultural differences, rather than our unity as Americans.

Let me mention a recent incident that occurred only two and a half weeks ago, just down the 270 Pike from here, in Gaithersburg, Maryland, which should give us cause for concern. Many of you may already know the story. It was in the Washington Post on May 23rd. It involves a local high school track coach from Gaithersburg High School who was suspended for 12 days for confronting a student who was disrespectful during the school's reciting of the Pledge of Allegiance.

I was incensed as soon as I heard of this incident. Here we have a 27-year veteran of the Montgomery County school system, a highly successful track coach who has won three state and 15 regional titles, suspended from his teaching and coaching jobs only because he attempted to get a student to show respect while the Pledge of Allegiance was being recited in the school.

The coach's name is Fran Parry. He lives a stones throw from here, in nearby Clarksburg. I called and spoke to Coach Parry

Tuesday, just five days ago. He told me that it was a spontaneous event, that the student who is a football player and who was on the track team, rushed past the coach who asked him to stop while the Pledge of Allegiance was being recited. The student angrily replied that he wasn't an American and didn't have to. The coach told him that was a bad attitude and that he had relatives who died for the very freedoms that the student enjoys. The student just laughed at Coach Parry and said ''So what.'' The coach told me he didn't think too much of the incident until the next day when he was summoned to the principal's office and told he was being suspended from his duties and placed on administrative leave.

The student is black. Coach Parry told me 80 percent of his track team is African-American and they backed the coach 1000 percent. There was not one dissenting voice among them. The coach met with the student's parents, expressed regret over the incident but told them he wouldn't change his message. He was then told by the Deputy Superintendent that he was on leave indefinitely and that there would be an investigation focusing on whether he was a racist.

Coach Parry told me that the commimity was unbelievably behind him. Families and students called. He had 29 calls one night from people that he didn't even know, from all cultures. Chris Core, on WMAL Radio, Washington's most popular afternoon radio talk show, had a two-hour call in. Chris Core supported the coach ''110 percent.'' Only two callers dissented. The very next day, Coach Parry told me, he was called by the principal and told he was being reinstated.

So here's a case of a student who shows blatant disrespect for the symbol of our freedom and the American way of life, who places the tenure and career of an outstanding and highly successful coach in jeopardy, and walks away blameless. At the same time, Coach Parry was told that he was ''too caustic,'' was suspended from his job for 12 days, and given a letter of reprimand.

Something's wrong here. The wrong guy has been punished. This is political correctness at its zaniest. Whatever happened to accountability and personal responsibility for one's own behavior? Instead of being portrayed as the villain, Coach Parry should be hailed as a patriot. Webster's dictionary defines a patriot as ''one who loves his country and zealously supports its authority and interests.'' The coach did what you and I would have done

There's more to this story, as I found out in talking to Coach Parry. As I said earlier, the student used to be on the track team at school. He and the coach knew each other well. The student sometimes ate his lunch in the coach's office, used his microwave. Coach Parry even drove him home after track practice at times when he needed a ride. But the student had an attitude problem, and it came to the fore with his disrespect for the Pledge of Allegiance.

Where does Coach Parry derive his patriotic fervor? From his dad and his uncle who fought with the Marines on Iwo Jima, the bloodiest battle in World War II. His uncle was with the Third Marine Division. He landed on the beach at Iwo with 48 Marines in his platoon. When he left on a stretcher, 40 of the 48 Marines were killed. The remaining 8, including himself were wounded. Coach Parry's dad was with the Fourth Marine Division. After he learned that his brother was wounded, he visited him later aboard a hospital ship off Iwo.

And if that isn't proof enough of Coach Parry's patriotic heritage, I learned that his great-great-great grandfather served in the American Revolutionary War as a sergeant in the First Maryland Regiment, and was wounded in battle in New Jersey while pulling down a British flag. What a legacy. I mention this family history only to put in perspective the total picture. The bottom line, as Coach Parry told me, is that ''people do care—I'm testimony to that.'' He told me that he had just received in the mail an unsolicited musical tape of patriotic songs from a group called ''Friends of America'' from Fort Collins, Colorado. One of the songs was ''I'm Proud to be an American.'' To that, I can only add, thank God that Coach Parry is an American. He's All-American, first team, in my opinion.

From this example of Coach Parry, it proves the point that coaches hold a unique place in the educational system of this country. They are not only teachers of young men and women, they are also their leaders. They test their spirit, and at the same time force them to test themselves. Coaches do as much to build the character of the future leaders of our country as any other group

Let me tell you about another great coach—one who I regarded as the best coach in America—my high school coach at St. Agnes Home for Boys in Sparkill, New York, one of the two orphanages where I was raised.

His name was Jim Faulk, an inspirational leader unsurpassed. When he was inducted into the Rockland County Sports Hall of Fame in 1978, the program citation read: ''Jim Faulk not only was the coach, he was 'Mr. Everything' at St. Agnes. He did it all. He was the athletic director, the guidance counsellor, the social worker, the disciplinarian, the trainer, the varsity and J.V. coach for all the sports, which included football, basketball, baseball, wrestling and golf. In his spare time he also ran a full sports program for the alumni. He even drove the school bus.'' In his acceptance speech, he said, ''I made it only because of the gutsy kids I coached at St. Agnes.'' I know he said it because I was there.

Jim Faulk came to St. Agnes in 1933, fresh out of the University of Alabama. Through the years, he turned down lucrative offers from Villanova and other prestigious colleges to remain at a much lower salary with the orphan boys and kids from broken homes. He devoted his life to St. Agnes—and to the Dominican nuns there—helping needy youngsters advance through life.

He produced football teams so tough that few schools wanted to play him. One of the schools that accepted the challenge was St. Cecelia's High School in Englewood, New Jersey. Its young coach then, just out of Fordham, later went on to fame as head coach of the Green Bay Packers and the Washington Redskins—Vince Lombardi.

Coach Faulk tried to set up a game with the New York Military Academy, an

During World War II, Coach Faulk took a leave of absence from St. Agnes to join the Marines. He was a Captain in command of artillery units and saw extensive combat in the Pacific, including action at Guadalcanal. He remained in the Marine Corps Reserve in later life and retired as a full colonel.

He wrote many inspiring letters from his combat assignments during the war that were reprinted in a newsletter sent out by the nuns to St. Agnes men serving in the military around the globe. He always addressed his letters ''To the Fightingest Boys in the World.'' In one of his letters, as he was aboard ship and waiting to go over the side, he wrote:

''There is absolutely no group of men in this wide world as loyal and devoted to its alma mater and to each other as you fighting boys from St. Agnes. No doubt, as you move from place to place in your travels to all continents and mingle with men from all states and nations, you must begin to appreciate more and more that spirit of St. Agnes—the spirit that is so much a part of your daily lives.

''No one but a St. Agnes boy could understand that deep loyalty and respect you have for each other. Stick together in war as you did in peace. Let the Sisters back home know where you are and what you are doing. Whether a private or a captain, you all speak the same language; you all have the same ideals and you are all heroes in my book. The Sisters feel likewise. They are bursting with pride and joy over your accomplishments.''

That's the type of man Coach Jim Faulk was—always caring, inspiring, encouraging and motivating St. Agnes men to excel and achieve. And many St. Agnes graduates heard his message and followed in his footsteps. Let me mention some of them.

St. Agnes had as many as 600 kids fighting in World War II. Over 40 were killed, hundreds were wounded, and many were decorated for bravery. Guys like: Charlie Loesch, who lost his leg in the muddy mountains of sunny Italy. (His reaction: ''when I get my artificial leg, everything will be just the same as when I had two genuine legs''); 1st Lt. A.J. Fabrizi, who completed 50 bombing missions over enemy territory with the 15th Air Force in Italy; Francis Mahon, who went back to Walter Reed Hospital for the third operation to save his eye; the mother of Bill Callahan wrote to let us know her son was a P.O.W. His address then was Stalag 17 B, Germany; Frank Napoli paratrooper, won the Silver Star and the Purple Heart after major landings in Sicily and Salerno, Italy; Sam Torresse who Coach Faulk wrote to and said, ''I was sorry to hear about your wounds . . . it will take more than a Nazi to flatten you''; Jim Nestor—Coach Faulk talked to other Marines who were with him when he gave his life on a ridge in the Marianas ''trying to prevent a breakthrough of fanatic, drunken Nips''; and Captain David Loeser, Army, killed in action in Luxembourg, the first St. Agnes kid to attain the rank of Captain.

I could go on and on, but as Coach Faulk said, these were gutsy kids, and true heroes they were. They were my legacy, they are yours, and they are America's.

Literally hundreds and hundreds of St. Agnes men, including two brothers and myself, joined the Marine Corps, inspired by the example set by Coach Faulk. I had two other brothers join the Navy. Coach Faulk was, in my opinion, probably the greatest unofficial recruiter the Marine Corps ever had.

Jim and his wife Betty were never blessed with children. We took care of that. Some of us named our children after him. My oldest son is named James Faulk Merna. Coach Faulk was very proud of his namesake and visited him with much pride when he was a midshipman at the U.S. Naval Academy. Our son graduated with the Class of 1987, is married with two children, and is a lawyer with the most prominent law firm in Atlanta.

Coach Faulk once told me in a letter, while I was in Korea during that war, ''One character trait that I admired in all of you St. Agnes men—you went out into the world with two strikes on you, and never expected to be embraced, gave your all for your country when it asked, and, now, most of you are

raising families who can truly say—my father came up the hard way.''

Now you can see why I said earlier that someone like Coach Faulk was the greatest coach that I have ever known. Our nation needs strong coaches like Coach Faulk, Coach Parry, and Ben Wright, because they are doing as much to build the character of our future leaders as any other group of men or women.

One last final thought. Our nation is in the midst of a huge nostalgia fest with the Second World War. A number of ''Greatest Generation'' books have been written, the best by Tom Brokaw of NBC News, box-office attendance records have been set for the new blockbuster movies like ''Saving Private Ryan'' and now ''Pearl Harbor.'' There has also been significant publicity about the World War II Memorial now finally approved for the Mall in Washington, D.C.

Let us build on this momentum. We have elections coming up next year, and another Presidential election in 2004. As George Will pointed out recently, during the last administration, at times, we had a president, a CIA director, a Secretary of Defense, a Secretary of State, and a National Security Advisor, none of whom had any military experience. It's almost as appalling in the Congress. According to the National Association for Uniformed Services, in 1965, 82% of the members of Congress and 80% of the staffers had military experience. Now less than ⅓ of Congress and 5% of their staff have had any military experience. And on the civilian side, only 6% today of Americans younger than 65 have ever served in uniform.

Those numbers by themselves are not alarming because it's recognized that we are not at war and we have at present an all-volunteer military. We just need to be sure that we elect public officials who have a greater understanding and a strong commitment to support our national security and defense by deeds, not mere words. We need their solid support, as well as from local school board officials, for military recruiters who were denied access to high school campuses 19,228 times in 1999.

Thank you for inviting me to participate in your Flag Day celebration today. As members of the Benevolent and Protective Order of Elks, you have long set an example the rest of us must try to follow if we are going to preserve for our future generations the same priceless treasures of liberty and freedom which our forebears passed on to us.